



General Assembly

February Session, 2010

Governor's Bill No. 5030

LCO No. 194

*00194 _____ *

Referred to Committee on Judiciary

Introduced by:

REP. CAFERO, 142nd Dist.

SEN. MCKINNEY, 28th Dist.

AN ACT CONCERNING THE FORFEITURE OF MONEY AND PROPERTY RELATED TO CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING AND THE POSSESSION OF CHILD PORNOGRAPHY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) The following
2 property shall be subject to forfeiture to the state pursuant to
3 subsection (b) of this section:

4 (1) All moneys used, or intended for use, in a violation of
5 subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-
6 87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or 53a-
7 196c of the general statutes;

8 (2) All property constituting the proceeds obtained, directly or
9 indirectly, from a violation of subdivision (3) of subsection (a) of
10 section 53-21 or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b,
11 53a-192a, 53a-196a, 53a-196b or 53a-196c of the general statutes;

12 (3) All property derived from the proceeds obtained, directly or
13 indirectly, from any sale or exchange for pecuniary gain from a
14 violation of subdivision (3) of subsection (a) of section 53-21 or section
15 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-
16 196b or 53a-196c of the general statutes;

17 (4) All property used or intended for use, in any manner or part, to
18 commit or facilitate the commission of a violation for pecuniary gain of
19 subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-
20 87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or 53a-
21 196c of the general statutes.

22 (b) Not later than ninety days after the seizure of moneys or
23 property subject to forfeiture pursuant to subsection (a) of this section,
24 in connection with a lawful criminal arrest or a lawful search, the Chief
25 State's Attorney or a deputy chief state's attorney, state's attorney or
26 assistant or deputy assistant state's attorney may petition the court in
27 the nature of a proceeding in rem to order forfeiture of such moneys or
28 property. Such proceeding shall be deemed a civil suit in equity in
29 which the state shall have the burden of proving all material facts by
30 clear and convincing evidence. The court shall identify the owner of
31 such moneys or property and any other person as appears to have an
32 interest therein, and order the state to give notice to such owner and
33 any interested person, including any victim of the crime with respect
34 to which such moneys or property were seized, by certified or
35 registered mail. The court shall promptly, but not less than two weeks
36 after such notice, hold a hearing on the petition. No testimony offered
37 or evidence produced by such owner or interested person at such
38 hearing and no evidence discovered as a result of or otherwise derived
39 from such testimony or evidence may be used against such owner or
40 interested person in any proceeding, except that no such owner or
41 interested person shall be immune from prosecution for perjury or
42 contempt committed while giving such testimony or producing such
43 evidence. At such hearing, the court shall hear evidence and make
44 findings of fact and enter conclusions of law and shall issue a final

45 order from which the parties shall have such right of appeal as from a
46 decree in equity.

47 (c) No moneys or property shall be forfeited under this section to
48 the extent of the interest of an owner or lienholder by reason of any act
49 or omission committed by another person if such owner or lienholder
50 did not know and could not have reasonably known that such moneys
51 or property was being used or was intended to be used in, or was
52 derived from, criminal activity.

53 (d) Notwithstanding the provisions of subsection (a) of this section,
54 no moneys or property used or intended to be used by the owner
55 thereof to pay legitimate attorney's fees in connection with his or her
56 defense in a criminal prosecution shall be subject to forfeiture under
57 this section.

58 (e) Any property ordered forfeited pursuant to subsection (b) of this
59 section shall be sold at public auction conducted by the Commissioner
60 of Administrative Services or the commissioner's designee.

61 (f) The proceeds from any sale of property under subsection (e) of
62 this section and any moneys forfeited under this section shall be
63 applied: (1) To payment of the balance due on any lien preserved by
64 the court in the forfeiture proceedings; (2) to payment of any costs
65 incurred for the storage, maintenance, security and forfeiture of any
66 such property; and (3) to payment of court costs. The balance, if any,
67 shall be deposited in the General Fund.

68 Sec. 2. Section 7-294f of the general statutes is repealed and the
69 following is substituted in lieu thereof (*Effective October 1, 2010*):

70 Each police basic training program conducted or administered by
71 the Division of State Police within the Department of Public Safety, the
72 Police Officer Standards and Training Council established under
73 section 7-294b or municipal police department in the state shall include
74 a course on sexual assault investigation and rape crisis intervention

75 and each review training program conducted by such agencies shall
76 make provision for such a course.

77 Sec. 3. Section 53a-196d of the general statutes is repealed and the
78 following is substituted in lieu thereof (*Effective October 1, 2010*):

79 (a) A person is guilty of possessing child pornography in the first
80 degree when such person knowingly possesses (1) fifty or more visual
81 depictions of child pornography, or (2) one or more visual depictions
82 of child pornography that depict the infliction or threatened infliction
83 of serious physical injury.

84 (b) Possessing child pornography in the first degree is a class B
85 felony and any person found guilty under this section shall be
86 sentenced to a term of imprisonment of which five years of the
87 sentence imposed may not be suspended or reduced by the court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	7-294f
Sec. 3	<i>October 1, 2010</i>	53a-196d

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]