



General Assembly

February Session, 2010

**Governor's Bill No. 5030**

LCO No. 194

\*        HB05030JUD        032910        \*

Referred to Committee on Judiciary

Introduced by:

REP. CAFERO, 142<sup>nd</sup> Dist.

SEN. MCKINNEY, 28<sup>th</sup> 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

**JUD**      *Joint Favorable*