



House Bill No. 5030

Public Act No. 10-112

AN ACT CONCERNING THE FORFEITURE OF MONEY AND PROPERTY RELATED TO CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING, THE POSSESSION OF CHILD PORNOGRAPHY AND THE SITING OF RESIDENTIAL SEXUAL OFFENDER TREATMENT FACILITIES.

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

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

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

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

(3) All property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of subdivision (3) of subsection (a) of section 53-21 or section

House Bill No. 5030

53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or 53a-196c of the general statutes;

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

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

House Bill No. 5030

decree in equity.

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

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

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

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

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

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

House Bill No. 5030

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

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

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

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

Sec. 4. (NEW) (*Effective from passage*) (a) Whenever the Department of Correction or the Court Support Services Division of the Judicial Department issue a request for proposals for a residential sexual offender treatment facility pursuant to section 19 or 20 of public act 08-1 of the January special session, the department and division, prior to consideration of a proposed site for such a facility, shall:

(1) Require any person, firm or corporation submitting a proposal in response to the request for proposals to identify at least five proposed sites in various geographical locations around the state for consideration; and

(2) Establish criteria by which such proposed sites are evaluated, including, but not limited to, the proximity of a proposed site to: (A) Municipal parks, recreational facilities, youth services facilities and senior centers, (B) public or private elementary or secondary schools, (C) commercial, industrial or residential property, (D) establishments holding a permit to sell alcoholic liquor, (E) property being used for

House Bill No. 5030

religious purposes, (F) facilities offering child day care services, as defined in section 19a-77 of the general statutes, (G) casinos, and (H) local and state roads.

(b) Each person, firm or corporation submitting a proposal in response to the request for proposals shall provide, prior to consideration of a proposed site by the Department of Correction or the Court Support Services Division, a description of the physical location of the proposed site and the surrounding area. The description of the surrounding area shall include local and state roads and the nature, function and number of properties within one mile of the proposed site including the number of properties serving commercial, industrial, agricultural, recreational, religious or residential uses and the number of schools, properties offering child day care services, properties holding a permit to sell alcoholic liquor, senior centers and casinos. Such description shall also include the proximity of such proposed site to transportation facilities and employment, educational, housing and counseling opportunities.

Approved June 8, 2010