



**State of Connecticut**  
**DIVISION OF CRIMINAL JUSTICE**

**TESTIMONY**

**JOINT COMMITTEE ON JUDICIARY**

*In support of:*

**H.B. No. 6536 (RAISED):**  
**An Act Concerning the Forfeiture of Seized Property and the Crime of Voyeurism**

*March 9, 2011*

The Division of Criminal Justice respectfully requests and recommends the Committee's Joint Favorable Report for H.B. No. 6536, An Act Concerning the Forfeiture of Seized Property and the Crime of Voyeurism. This bill was submitted to the Committee as one of the Division's legislative recommendations for this session. It would make relatively simple yet significant changes in two areas: the procedure for obtaining the forfeiture of monetary or other proceeds of criminal activity and the "peeping tom" statutes.

Section 1 of the bill revises section 54-33g of the general statutes, the *in rem* statute, to harmonize it with the procedure utilized for drug asset forfeiture. Section 54-33g is a potentially powerful, but greatly underused, tool that permits a civil *in rem* action against property used to facilitate crimes other than drug offenses. Unfortunately the current procedure and limited scope of the law have discouraged its use in more than a handful of cases each year. Among the problems:

- Section 54-33 *in rem* cases must be brought within ten days of seizure. This is a very short period of time within which the police have to draft a summons, serve it, and advise prosecutors of the nuisance action. The court then must schedule a hearing within 6-12 days of service of process. These short deadlines and ad hoc scheduling have made it difficult to utilize this procedure in an efficient and effective manner. H.B. No. 6536 would bring the *in rem* procedure in line with the drug asset forfeiture procedure, which provides for a 90-day filing envelope, allowing notice by certified or registered mail and imposing the same scheduling requirements as asset forfeiture (section 54-36h).
- Section 54-33g currently reaches only facilitating property and fails to include the proceeds of illegal activity. In one recent case the Division was unable to proceed against prostitution enterprises involving the seizure of thousands of dollars. H.B. No. 6536 expands nuisance property to include proceeds of criminal activity.

- When the seized property is money, section 54-33g currently provides for no sharing back to the investigating police department, even where the police have invested a major investigative effort. Frankly, this lack of even reimbursement – let alone reward – is a disincentive for police departments to invest the time and effort required to prove a proceeds case. H.B. No. 6536 allows the court to make a discretionary award to law enforcement.

Section of the bill addresses what appears to be a drafting problem with Public Act No. 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, and specifically what has been codified as section 54-36p of the general statutes. The language mirrors section 54-36h, the drug asset forfeiture law and includes a requirement that the criminal activity must be for or intended for pecuniary gain. The problem arises from the fact that most child pornography is not produced or distributed commercially for pecuniary gain as was recognized by the United States Supreme Court in *United States v. Williams*, 553 U.S. 285, 128 S.Ct. 1830 (2008). Our review of information from the Connecticut Computer Crimes Task Force confirms this contention that the majority of cases involve private collectors and not commercial pornographers. Section 2 of H.B. No. 6536 makes a minor and largely technical deletion to the existing statute to correct this situation and enhance our ability to bring forfeiture actions in child pornography cases.

Section 3 of the bill revises the “peeping tom” statutes to address a problem that came to light in a recent case. A man with a previous history of sexual assault was found peeping into the window of a child. When arrested he admitted that he was having fantasies about molesting little girls. Since his earlier conviction was many years ago, he was no longer required to register as a sex offender and his probation was long over. This case led to the conclusion that the “peeping tom” statute should be strengthened, especially for those previously convicted of a sexual offense, or when the peeping involves young children. The “peeping tom” statute is currently considered Disorderly Conduct per section 53a-182(7). H.B. No. 6536 would place such conduct as Voyeurism per section 53a-189a and make the offense a class D felony.

In conclusion, the Division of Criminal Justice wishes to thank the Committee for raising H.B. No. 6536 and for your consideration of these important issues. We would be happy to provide any additional information the Committee might require or to answer any questions you might have.