



General Assembly

January Session, 2011

**Raised Bill No. 6536**

LCO No. 4177

\*04177 \_\_\_\_\_ JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE FORFEITURE OF SEIZED PROPERTY  
AND THE CRIME OF VOYEURISM.**

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

1 Section 1. Section 54-33g of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) When any property believed to be possessed, controlled,  
4 designed or intended for use or which is or has been used or which  
5 may be used as a means of committing any criminal offense, or which  
6 constitutes the proceeds of the commission of any criminal offense,  
7 except a violation of section 21a-267, 21a-277, 21a-278 or 21a-279, has  
8 been seized as a result of a lawful arrest or lawful search, which the  
9 state claims to be a nuisance and desires to have destroyed or disposed  
10 of in accordance with the provisions of this section, the [judge or court  
11 issuing the warrant or before whom the arrested person is to be  
12 arraigned shall, within ten days after such seizure, cause to be left with  
13 the owner of, and with any person claiming of record a bona fide  
14 mortgage, assignment of lease or rent, lien or security interest in, the  
15 property so seized, or at his usual place of abode, if he is known, or, if  
16 unknown, at the place where the property was seized, a summons

17 notifying the owner and any such other person claiming such interest  
18 and all others whom it may concern to appear before such judge or  
19 court, at a place and time named in such notice, which shall be not less  
20 than six nor more than twelve days after the service thereof. Such  
21 summons may be signed by a clerk of the court or his assistant and  
22 service may be made by a local or state police officer. It shall describe  
23 such property with reasonable certainty and state when and where  
24 and why the same was seized] Chief State's Attorney or a deputy chief  
25 state's attorney, state's attorney or assistant or deputy assistant state's  
26 attorney may petition the court in the nature of a proceeding in rem to  
27 order forfeiture of such moneys or property. Such proceeding shall be  
28 deemed a civil suit in equity in which the state shall have the burden  
29 of proving all material facts by clear and convincing evidence. The  
30 court shall identify the owner of such property and any other person  
31 as appears to have an interest therein, and order the state to give notice  
32 to such owner and any interested person by certified or registered  
33 mail. The court shall promptly, but not less than two weeks after such  
34 notice, hold a hearing on the petition.

35 [(b) If the owner of such property or any person claiming any  
36 interest in the same appears, he shall be made a party defendant in  
37 such case. Any state's attorney or assistant state's attorney may appear  
38 and prosecute such complaint and shall have the burden of proving all  
39 material facts by clear and convincing evidence.]

40 [(c)] (b) If the [judge or] court finds the allegations made in such  
41 [complaint] petition to be true and that the property has been  
42 possessed, controlled or designed for use, or is or has been or is  
43 intended to be used, with intent to violate or in violation of any of the  
44 criminal laws of this state, or constitutes the proceeds of a violation of  
45 any of the criminal laws of this state, except a violation of section 21a-  
46 267, 21a-277, 21a-278 or 21a-279, [he] the court shall render judgment  
47 that such property is a nuisance and order the same to be destroyed or  
48 disposed of to a charitable or educational institution or to a  
49 governmental agency or institution provided, if any such property is

50 subject to a bona fide mortgage, assignment of lease or rent, lien or  
51 security interest, such property shall not be so destroyed or disposed  
52 of in violation of the rights of the holder of such interest. When [any  
53 money or valuable prize has been seized upon such warrant and  
54 condemned under the provisions of this section, such money or  
55 valuable prize shall become the property of the state and when the  
56 property is money it shall be deposited in the General Fund, provided  
57 any such property, which at the time of such order] the condemned  
58 property is money, the court may, in its discretion, award all or a  
59 portion of such money to the investigating law enforcement agency.  
60 Any moneys not awarded to such agency shall be deposited in the  
61 General Fund. When the condemned property is a valuable prize that  
62 is subject to a bona fide mortgage, assignment of lease or rent, lien or  
63 security interest, such property shall remain subject to such mortgage,  
64 assignment of lease or rent, lien or security interest. When any  
65 property or valuable prize has been declared a nuisance and  
66 condemned under this section, the court may also order that such  
67 property be sold by sale at public auction in which case the proceeds  
68 shall become the property of the state and shall be deposited in the  
69 General Fund; provided, any person who has a bona fide mortgage,  
70 assignment of lease or rent, lien or security interest shall have the same  
71 right to the proceeds as [he] such person had in the property prior to  
72 sale. Final destruction or disposal of such property shall not be made  
73 until any criminal trial in which such property might be used as  
74 evidence has been completed.

75 [(d)] (c) If the [judge or] court finds the allegations not to be true or  
76 that the property has not been kept with intent to violate or in  
77 violation of the criminal laws of this state, or that it does not constitute  
78 the proceeds of a violation of the criminal laws of this state, or that it is  
79 the property of a person not a defendant, [he] the court shall order the  
80 property returned to the owner forthwith and the party in possession  
81 of such property pending such determination shall be responsible and  
82 personally liable for such property from the time of seizure and shall  
83 immediately comply with such order.

84 [(e)] (d) Failure of the state to proceed against such property in  
85 accordance with the provisions of this section shall not prevent the use  
86 of such property as evidence in any criminal trial.

87 Sec. 2. Section 54-36p of the general statutes is repealed and the  
88 following is substituted in lieu thereof (*Effective October 1, 2011*):

89 (a) The following property shall be subject to forfeiture to the state  
90 pursuant to subsection (b) of this section:

91 (1) All moneys used, or intended for use, in a violation of  
92 subdivision (3) of subsection (a) of section 53-21 or section 53a-86, 53a-  
93 87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or 53a-  
94 196c;

95 (2) All property constituting the proceeds obtained, directly or  
96 indirectly, from a violation of subdivision (3) of subsection (a) of  
97 section 53-21 or section 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b,  
98 53a-192a, 53a-196a, 53a-196b or 53a-196c;

99 (3) All property derived from the proceeds obtained, directly or  
100 indirectly, [from any sale or exchange for pecuniary gain] from a  
101 violation of subdivision (3) of subsection (a) of section 53-21 or section  
102 53a-86, 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-  
103 196b or 53a-196c;

104 (4) All property used or intended for use, in any manner or part, to  
105 commit or facilitate the commission of a violation [for pecuniary gain]  
106 of subdivision (3) of subsection (a) of section 53-21 or section 53a-86,  
107 53a-87, 53a-90a, 53a-189a, 53a-189b, 53a-192a, 53a-196a, 53a-196b or  
108 53a-196c.

109 (b) Not later than ninety days after the seizure of moneys or  
110 property subject to forfeiture pursuant to subsection (a) of this section,  
111 in connection with a lawful criminal arrest or a lawful search, the Chief  
112 State's Attorney or a deputy chief state's attorney, state's attorney or  
113 assistant or deputy assistant state's attorney may petition the court in

114 the nature of a proceeding in rem to order forfeiture of such moneys or  
115 property. Such proceeding shall be deemed a civil suit in equity in  
116 which the state shall have the burden of proving all material facts by  
117 clear and convincing evidence. The court shall identify the owner of  
118 such moneys or property and any other person as appears to have an  
119 interest therein, and order the state to give notice to such owner and  
120 any interested person, including any victim of the crime with respect  
121 to which such moneys or property were seized, by certified or  
122 registered mail. The court shall promptly, but not less than two weeks  
123 after such notice, hold a hearing on the petition. No testimony offered  
124 or evidence produced by such owner or interested person at such  
125 hearing and no evidence discovered as a result of or otherwise derived  
126 from such testimony or evidence may be used against such owner or  
127 interested person in any proceeding, except that no such owner or  
128 interested person shall be immune from prosecution for perjury or  
129 contempt committed while giving such testimony or producing such  
130 evidence. At such hearing, the court shall hear evidence and make  
131 findings of fact and enter conclusions of law and shall issue a final  
132 order from which the parties shall have such right of appeal as from a  
133 decree in equity.

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

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

145 (e) Any property ordered forfeited pursuant to subsection (b) of this

146 section shall be sold at public auction conducted by the Commissioner  
147 of Administrative Services or the commissioner's designee.

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

155 Sec. 3. Section 53a-189a of the general statutes is repealed and the  
156 following is substituted in lieu thereof (*Effective October 1, 2011*):

157 (a) A person is guilty of voyeurism when, (1) with malice, such  
158 person knowingly photographs, films, videotapes or otherwise records  
159 the image of another person (A) without the knowledge and consent of  
160 such other person, (B) while such other person is not in plain view, and  
161 (C) under circumstances where such other person has a reasonable  
162 expectation of privacy, or (2) with intent to arouse or satisfy the sexual  
163 desire of such person or any other person, such person knowingly  
164 photographs, films, videotapes or otherwise records the image of  
165 another person (A) without the knowledge and consent of such other  
166 person, (B) while such other person is not in plain view, and (C) under  
167 circumstances where such other person has a reasonable expectation of  
168 privacy, or (3) with intent to arouse or satisfy the sexual desire of such  
169 person, such person commits simple trespass, as provided in section  
170 53a-110a, and observes, in other than a casual or cursory manner,  
171 another person under sixteen years of age (A) without the knowledge  
172 or consent of such other person, (B) while such other person is inside a  
173 dwelling, as defined in section 53a-100, and not in plain view, and (C)  
174 under circumstances where such other person has a reasonable  
175 expectation of privacy.

176 (b) Voyeurism is a class D felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	54-33g
Sec. 2	<i>October 1, 2011</i>	54-36p
Sec. 3	<i>October 1, 2011</i>	53a-189a

***Statement of Purpose:***

To revise the procedure for the forfeiture of property seized as a result of a lawful arrest or search and increase the penalties for certain "peeping tom" violations involving children.

*[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.]*