



State of Connecticut  
DIVISION OF CRIMINAL JUSTICE

**Testimony of the Division of Criminal Justice  
Joint Committee on Judiciary**

**March 19, 2012**

**In Support of:**

**H.B. No. 5513: An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System**

The Division of Criminal Justice respectfully recommends and requests the Committee's JOINT FAVORABLE REPORT for H.B. No. 5513, An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System. This bill is before the Committee as one of the legislative recommendations from the Division of Criminal Justice for this year's session. The bill makes several changes to statutes involving crimes or criminal procedure.

Section 1 would revise the procedures utilized for *in rem* proceedings to bring them in line with the procedures utilized in the asset forfeiture proceedings. Section 54-33g is a potentially powerful, but greatly underutilized, 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. 5513 allows the court to make a discretionary award to law enforcement.

Section 2 makes a largely technical, but significant change to section 54-36p, which originated from Public Act 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. Due to an apparently inadvertent drafting oversight, the statute currently limits asset seizure to cases where a sale or exchange of child pornography takes place "for pecuniary gain." 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.

Sections 3-5 of the bill strengthen penalties for acts of voyeurism committed by someone who once would have been referred to as a "peeping tom." The bill strengthens and clarifies the voyeurism statute with regard to such conduct and also provides for a stronger, and more appropriate penalty. The Division would call to the Committee's attention the fact that Section 3 of H.B. No. 5513, includes some of the same language included in H.B. No. 5525, An Act Concerning Voyeurism. The Division believes both bills contain worthwhile provisions and would best be merged in a single piece of legislation. We would be happy to work with the Committee to develop appropriate language.

Section 6 of the bill eliminates the current requirement that a party in a criminal proceeding give at least 21 days' notice of the intent to introduce DNA evidence. This requirement was instituted at a time when DNA evidence was considered new and revolutionary. That time has long past and the notice requirement is now simply obsolete. The repeal of this section would have no impact whatsoever on any other provisions that would continue to require notice and the provision of other information in criminal proceedings. The special treatment of DNA evidence is just now longer warranted.

Section 7 of the bill would allow probation officers employed by the Judicial Branch to set bail in the course of serving warrants for violation of probation. It is the probation officer who prepares such warrants and who in many cases is responsible for their execution. A narrow reading of section 54-63c has resulted in situations where probation officers are not being allowed to either put a bond on a warrant when the judge has left the bond to law enforcement or allowing release on a promise to appear. As the law currently stands, the probation officer serving the warrant can neither set a bond nor authorize release on a promise to appear. This change would permit the probation officer serving the warrant to do so when it has not been set by the court. Almost every court has a probation officer who serves as the "warrant officer" and serves violation of probation warrants on individuals who are either brought to court for that purpose or who are present for another reason. If police officers can set bail on violation of probation warrants, probation officers should clearly be authorized to do so as well.