State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN SUPPORT OF:

H.B. NO. 5666: AN ACT CONCERNING THE FORFEITURE OF MONEYS AND PROPERTY RELATED TO SEXUAL EXPLOITATION AND HUMAN TRAFFICKING

JOINT COMMITTEE ON JUDICIARY
April 5, 2013

The Division of Criminal Justice respectfully recommends the Committee's **Joint Favorable SUBSTITUTE Report** for H.B. No. 5666, An Act Concerning the Forfeiture of Moneys and Property Related to Sexual Exploitation and Human Trafficking. The Division supports the concept proposed in this legislation, but does not believe that goal can be achieved without substantive revision of the underlying statute, Section 54-36p.

The Division of Criminal Justice would recommend that the Committee merge H.B. No. 5666 with sections 1 through 3 of S.B. No. 871, **An Act Concerning Revisions to Various Statutes Concerning the Criminal Justice System**, which was the subject of a public hearing on March 4, 2013 and which proposes to addresses shortcomings that essentially have left section 54-36p unworkable.

As explained that the time, and to reiterate today, Section 54-36 (a)(3) and 54-36p (a)(4) both require violations for "pecuniary gain," whereas child pornographers typically exchange images and files free of charge for reasons having nothing to do with pecuniary gain. The attorney's fees exemption contained in 54-36p (d) potentially allows a child molester to use the profits of child pornography to defense against criminal charges.

Of further concern is the fact that section 54-36p has no sharing provision for law enforcement. Prostitution, human trafficking and child pornography cases are all labor intensive investigations for law enforcement. Since our Connecticut state law has no sharing provision to return a portion of proceeds back to the police in such cases, as a practical matter they are referred to federal agencies, which do have equitable sharing provisions for forfeiture.

The Division believes the proper resolution of this dilemma rests in the language embodied in section 1 of S.B. No. 871. This language revises the procedures utilized for in rem proceedings to bring them in line with the procedures utilized in drug asset forfeiture proceedings. This proposal further allows the court in an in rem proceeding involving the seizure of money to make a discretionary award to law enforcement, providing an incentive for police departments to invest the time and effort required to prove a proceeds case. Additionally, as referenced previously, section 2 of S.B. No. 871 eliminates the "for

pecuniary gain" requirement, which is a largely technical but significant change to section 54-36p. We would note again that the "for pecuniary gain" wording appears to have been included as the result of an oversight in the drafting of the public act that has since been codified as Section 54-36p.

In conclusion, the Division of Criminal Justice commends the proponents of H.B. No. 5666 for offering this further enhancement and strengthening of the asset forfeiture statutes and procedures. In an effort to assure that the intention of this legislation is achieved, we would respectfully recommend the Committee's JOINT FAVORABLE SUBSTITUTE Report to merge this bill with the appropriate sections of S.B. No. 871. The Division expresses its appreciation to the Committee for this opportunity to offer input on this matter and would be happy to answer any questions or to provide any additional information the Committee might require. Thank you.