

PA10-112

HB5030

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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

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April 28, 2010

DEPUTY SPEAKER ORANGE:

Have all the Members voted? Have all the Members voted? If all the Members have voted, please check the board to determine if your vote has been properly cast.

If so, the machine will be locked.

And the Clerk will take a tally, and will the Clerk please announce the tally.

THE CLERK:

House Joint Resolution Number 21 as amended by House "A".

Total Number Voting	145
Necessary for Adoption	73
Those voting Yea	145
Those voting Nay	0
Those absent and not voting	6

DEPUTY SPEAKER ORANGE:

The Bill as amended, the Resolution as amended,
passes.

Will the Clerk please call Calendar Number 343.

THE CLERK:

On Page 39, Calendar 343, House Bill Number 5030 AN
ACT CONCERNING THE FORFEITURE OF MONEY AND PROPERTY RELATED
TO CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING AND THE

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POSSESSION OF CHILD PORNOGRAPHY. Favorable Report of the
Committee on Public Safety and Security.

DEPUTY SPEAKER O'ROURKE:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. Good afternoon. Mr. Speaker,
I move acceptance of the Joint Committee's Favorable Report
and passage of the Bill.

DEPUTY SPEAKER O'ROURKE:

Motion is on acceptance and passage. Will you remark?

REP LAWLOR: (99th)

Thank you, Mr. Speaker. This Bill was proposed by the
Governor. A similar bill was before the Legislature last
year for sure. I think maybe the year before that as well.

The principal author of this is Commissioner Dannaher
from the Department of Public Safety who brought with him
to the Department his expertise as a federal prosecutor in
the United States Department of Justice.

He has suggested to us that we consider adding to the
list of asset forfeiture procedures the situations
involving sexual exploitation of children, which is in
effect what this Bill does.

It adds, currently the state allows for asset
forfeiture in matters involving organized crime

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racketeering and also in situations involving the same of narcotics in an organized fashion. So the assets, which criminals acquire by engaging this illicit activity can be seized by the government, there are court procedures, which govern this and then ultimately could be forfeited to the state and then the value of those assets used for a variety of enumerated purposes.

In addition, and I should point out that the procedures in this Bill are identical to the existing state law procedures involving asset forfeiture in those other contexts.

In addition, this Bill adds to the definition of possession of child pornography, first degree, which currently relates to only the number of images that an offender possesses.

Added to that now would be even one image if the sexual exploitation of the child, which is depicted in this child pornography involves the actual infliction of injury or pain to the child. In other words, torture of a child being used as pornography. One such image would constitute the crime of criminal possession of child pornography first degree.

The Bill also provides training for police officers in the investigation of sexual assault crimes, which I think

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anyone involved in the criminal justice system knows is potentially the most difficult crime to investigate, especially dealing with child victims.

Mr. Speaker, I think this is an appropriate addition to our existing criminal statutes and procedures. I urge passage of the Bill.

DEPUTY SPEAKER O'ROURKE:

Very good. Will you remark? Representative O'Neill.

REP. O'NEILL: (69th)

Thank you, Mr. Speaker. I believe that I concur with the remarks of the Chair of the Judiciary Committee. I believe that this is an important addition to our criminal justice system.

I think that the elimination of the profits from pornographic activity may help to reduce the prevalence of it, since it is an activity that seems to be engaged in mostly for profit by those people engaged in child pornography, and certainly we see that this is a device that can have an effect to reduce the willingness of people to engage in this as a kind of commercial activity.

So I think that it is a piece of legislation, which is really well worth voting for. I think that it's something that will hopefully help reduce this rather horrible activity of exploiting children for the sexual

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gratification of adults, and so I would urge passage by the Chamber. Thank you, Mr. Speaker.

DEPUTY SPEAKER O'ROURKE:

Thank you, Representative O'Neill. Will you remark? Will you remark on the Bill before us? Representative Bacchiochi.

REP. BACCHIOCHI: (52nd)

Thank you, Mr. Speaker. Mr. Speaker, for the last two years I've been fortunate enough to work with some of the Members of the Judiciary Committee regarding what I see as a flaw in this system.

Connecticut, many of Connecticut's state agencies list one of their missions as, our mission is to protect children. I think there are certain areas where we are not going far enough.

Mr. Speaker, the Clerk has an Amendment. May he please call it and I be allowed to summarize.

DEPUTY SPEAKER O'ROURKE:

Could you tell us the LCO please, Representative?

REP. BACCHIOCHI: (52nd)

Pardon me?

DEPUTY SPEAKER O'ROURKE:

The LCO Number.

REP. BACCHIOCHI: (52nd)

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Oh, I'm sorry. LCO Number 3957.

DEPUTY SPEAKER O'ROURKE:

Mr. Clerk, please call LCO 3957 designated House
Amendment "A".

THE CLERK:

LCO Number 3957, House "A", offered by Representative
Bacchiochi.

DEPUTY SPEAKER O'ROURKE:

Representative Bacchiochi. Do you wish to summarize?

REP. BACCHIOCHI: (52nd)

Thank you. Mr. Speaker, what I think many people in
the State of Connecticut do not realize is that in this
state, a child can be raped, a child can be murdered, a
child can be sexually assaulted, and if an adult is
witnessing that crime, there is no legal obligation for
that adult unless they are a mandated reporter in the State
of Connecticut to report that rape, to report that murder
or to report that sexual assault.

The Amendment that I'm putting forth would change that
and require an adult who is not in fear of their own safety
or the safety of their family, to simply report that such a
crime has taken place.

Mr. Speaker, I move adoption.

DEPUTY SPEAKER O'ROURKE:

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Motion is on adoption of House Amendment "A". Will you remark? Will you remark on House Amendment "A"?

The Chamber stand at ease for a moment.

(Chamber at ease.)

The Chamber will come back to order. The Chair recognizes Representative Merrill.

REP. MERRILL: (54th)

Thank you, Mr. Speaker. I would make a motion that we pass this item temporarily.

DEPUTY SPEAKER O'ROURKE:

Motion is to pass temporarily. Without objection, the
item is passed temporarily.

Mr. Clerk, please call Calendar 127.

THE CLERK:

On Page 31, Calendar 127, Substitute for House Bill Number 5126 AN ACT ESTABLISHING A CHEMICAL INNOVATIONS INSTITUTE AT THE UNIVERSITY OF CONNECTICUT. Favorable Report of the Committee on Appropriations.

DEPUTY SPEAKER O'ROURKE:

The Chair recognizes the Chairman of the Environment Committee, Representative Roy.

REP. ROY: (119th)

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

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If all Members have voted, the machine will be locked and the Clerk will take a tally. Mr. Clerk, please announce the tally.

THE CLERK:

House Bill- 5426.

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	142
Those voting Nay	1
Those absent and not voting	8

DEPUTY SPEAKER O'ROURKE:

The Bill is passed.

Mr. Clerk, please return to the Call of the Calendar.

Recall Calendar 343.

THE CLERK:

On Page 29, 39, Calendar 343, House Bill Number 5030

AN ACT CONCERNING THE FORFEITURE OF MONEY AND PROPERTY RELATED TO CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING AND THE POSSESSION OF CHILD PORNOGRAPHY. Favorable Report by the Committee on Public Safety. House "A" has been designated.

DEPUTY SPEAKER O'ROURKE:

The Chair recognizes Representative Lawlor.

REP. LAWLOR: (99th)

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Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

DEPUTY SPEAKER O'ROURKE:

Motion is on acceptance and passage. Will you remark?

REP. LAWLOR: (99th)

Thank you, Mr. Speaker. I believe when we left off there was an Amendment, which had been called. Does it need to be recalled?

DEPUTY SPEAKER O'ROURKE:

That Amendment will be recalled in just a minute by the person offering the Amendment.

REP. LAWLOR: (99th)

I'd be happy to offer it if it would expedite things. I don't know the LCO Number. Have you concluded your remarks, Representative Lawlor?

REP. LAWLOR: (99th)

Yes, I have, Mr. Speaker.

DEPUTY SPEAKER O'ROURKE:

The Chair will recognize Representative Bacchiochi.

REP. BACCHIOCHI: (52nd)

Mr. Speaker, the Clerk has an Amendment, LCO Number 3957. May the Clerk call and may I be allowed to summarize.

DEPUTY SPEAKER O'ROURKE:

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Mr. Clerk, please call LCO 3957. The lady has asked leave to summarize.

THE CLERK:

LCO Number 3957, House "A" offered by Representative Bacchiochi.

DEPUTY SPEAKER O'ROURKE:

Representative Bacchiochi.

REP. BACCHIOCHI: (52nd)

Mr. Speaker, at this time I'd like to withdraw the Amendment.

DEPUTY SPEAKER O'ROURKE:

Without objection, so ordered. The Amendment is withdrawn.

Will you remark? Will you remark on the Bill? Will you remark?

If not, staff and guests come to the well of the House. Members take their seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call.
Members to the Chamber.

The House is taking a Roll Call Vote. Members to the Chamber, please.

DEPUTY SPEAKER O'ROURKE:

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Have all Members voted? Have all Members voted?

Please check the board to make sure your vote is properly recorded.

If all Members have voted, the machine will be locked. The Clerk will take a tally. Mr. Clerk, please announce the tally.

THE CLERK:

On House Bill 5030.

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	143
Those voting Nay	0
Those absent and not voting	8

DEPUTY SPEAKER O'ROURKE:

The Bill is passed.

Are there any announcements or points of personal privilege? Representative Guerrero of Rocky Hill.

REP. GUERRERA: (29th)

Thank you, Mr. Speaker, for the purpose of an announcement.

DEPUTY SPEAKER O'ROURKE:

Please proceed.

REP. GUERRERA: (29th)

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Those voting Yea	151
Those voting Nay	0
Those absent and not voting	0

DEPUTY SPEAKER GODFREY:

The bill as amended is passed.

The Clerk please call Calendar 343.

THE CLERK:

On page 39, Calendar 343, House Bill Number 5030,
AN ACT CONCERNING THE FORFEITURE OF MONEY AND PROPERTY
RELATED TO CHILD SEXUAL EXPLOITATION AND HUMAN
TRAFFICKING AND THE POSSESSION OF CHILD PORNOGRAPHY,
favorable report by the Committee on Public Safety.

DEPUTY SPEAKER GODFREY:

The distinguished Chairman of the Judiciary
Committee, Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker.

I move acceptance of the joint committee's
favorable report and passage of the bill in
concurrence with the Senate.

DEPUTY SPEAKER GODFREY:

The question is on passage.

Will you remark, sir?

REP. LAWLOR (99th):

Mr. Speaker, the Senate adopted an amendment. The Clerk has LCO 5327. I believe that's Senate Amendment "A." I'd ask the Clerk call and I be allowed to summarize.

DEPUTY SPEAKER GODFREY:

The Clerk is in possession of LCO Number 5327, previously designated as Senate Amendment Schedule "A." Will the Clerk please call.

THE CLERK:

LCO Number 5327, Senate "A," offered by Senators Stillman, Prague, et al.

DEPUTY SPEAKER GODFREY:

The gentleman has asked leave of the Chamber to summarize. Is there objection? Hearing none, please sir, proceed, Representative Lawlor.

REP. LAWLOR (99th):.

Thank you, Mr. Speaker.

This amendment adds some clarification language which governs the process by which the Department of Corrections and the judicial branch issue requests for proposals and make siting decisions with regard to residential sex offender facilities.

This has been discussed extensively with the two -- with the Department of Corrections and the

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judicial branch. I think all are in agreement that these are appropriate criteria when siting such a facility.

And I urge adoption of the amendment.

DEPUTY SPEAKER GODFREY:

The question is on adoption. Will you remark? Will you remark further on House amendment -- on Senate Amendment Schedule "A?" Senate Amendment Schedule "A?" If not, let me try your minds. All those in favor, signify by saying, aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, nay.

The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended?

If not, staff and guests, please -- oh, I'm sorry.

The distribution ranking member of the Judiciary Committee, Representative O'Neill.

REP. O'NEILL (69th):

Yes, Mr. Speaker. I apologize for being a little slow at getting on my feet. I have too many pieces of paper that I'm trying to juggle all at once here.

I just wanted to -- and I realize now that Senate

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"A" has been adopted, but I just wanted to ask a couple of quick questions.

With respect to the siting of the facility, the -- is there anything in Senate "A" that would prevent a facility from being cited without, for example, the approval of the General Assembly?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Lawlor, do you care to respond?

REP. LAWLOR (99th):

Thank you, Mr. Speaker. This language does not require the General Assembly's consent to site a facility. This governs the process by which the two -- the court support services division in the judicial department and the Department of Corrections make their siting decisions.

It adds some criteria that they must consider. It requires them to -- the proposal to contain five potential sites and information regarding the area in which each of the five sites are located. And -- but it does not require a subsequent ratification by the General Assembly.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

And through you, Mr. Speaker, in terms of imposing these criteria, in the event that there is a perceived failure by, for example, the Division of Court Support Services to adequately consider one of these criteria, what is the recourse or remedy if someone feels that that has been the case?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker.

I'm not sure there's a specific remedy, but I will say that the track record is clear, that when the General Assembly has required the consideration of certain factors, that the RFPs will, in fact, require those -- require that information to be included in the application. And I think both of these agencies have a long track record of respecting the criteria which we have required them to consider.

So I'm quite confident it will happen. There's no specific penalty for failing to do it other than potentially invalidating the entire process. And I

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think as we all know, there have been occasions in the past when people have challenged the process by which a contract has been awarded or a site has been chosen.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

And is there any indication as to how much of a -- if there would be a delay caused by the imposition of these additional criteria in terms of the actual identification of the location?

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker.

I can report based on my discussions with the agencies involved, there will be some delay, but it would not be a significant delay.

There's a process underway at the moment. The siting decision has not been made and I think everyone acknowledges these are reasonable and appropriate factors to be considered and now they will be

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specifically addressed. There probably will be some delay, but it's probably more a matter of weeks rather than many months.

Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Well, in light of the fact that it's already been a couple of years since we started the process of trying to find a location for sex offenders being placed, particularly on probation, an extra few weeks probably isn't an unreasonable delay in order to make sure that we don't overlook any really important factors in terms of location and siting of these things. So I appreciate the cochair's answers to my questions.

Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, sir.

Will you remark further on the bill as amended?
Will you remark further? If not, staff and guests please come to the well of the House. Members take your seats. The machine will be open.

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THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is taking a roll call vote. Members to the chamber, please.

DEPUTY SPEAKER GODFREY:

Have all the members voted?

Once again, I counsel members to stay close by the Chamber. As Representative Johnston, has noted, we're under five.

If all the members have voted the machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

THE CLERK:

House Bill 5030 in concurrence with the Senate.

Total Number voting	149
Necessary for adoption	75
Those voting Yea	149
Those voting Nay	0
Those absent and not voting	2

DEPUTY SPEAKER GODFREY:

The bill as amended is passed in concurrence with the Senate.

Mr. Clerk, please call Calendar 401.

THE CLERK:

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Additional go items, Mr. President, that we'll mark as well would be calendar page 4, Calendar 225, Senate Bill 241. Also calendar page 4, Calendar 185, Senate Bill 369. In addition, Mr. President, calendar page 8, Calendar 427, Senate Bill 110. And Mr. President, returning to calendar page 2, Calendar 114, Senate Bill 214. Also Mr. President, on calendar page 35, Calendar 333, Senate Bill 270. And on calendar page -- returning to calendar page 8, Mr. President, Calendar 398, Senate Bill 231. And then calendar page 36, Calendar 397, Senate Bill 196.

Mr. President, would mark those items at this time and the first two to be taken up -- the first two mentioned, that is calendar page 17, Calendar 513 and then calendar page 39, Calendar 545.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar page 17, Calendar 513, File Number 545, House Bill 5030, AN ACT CONCERNING THE FORFEITURE OF MONEY AND PROPERTY RELATED TO CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING AND THE POSITION OF CHILD PORNOGRAPHY, favorable report on the Committees of the Judiciary and Public Safety.

THE CHAIR:

Senator McDonald.

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint committee's favorable report and passage of the bill.

THE CHAIR:

Acting on acceptance and approval, sir, would you like to remark further?

SENATOR McDONALD:

Yes, Mr. President. This legislation extends a civil forfeiture proceeding to property whether monetary or otherwise that was involved in crimes involving sexual offenses. It's a well-known established procedure under the law. It also expands the definition of what constitutes first degree position of child pornography.

THE CHAIR:

Will you remark? Senator Stillman.

SENATOR STILLMAN:

Thank you, Mr. President. For the purpose of an amendment.

THE CHAIR:

Please proceed, ma'am.

SENATOR STILLMAN:

Thank you, sir.

If the Clerk would kindly call LCO Number 5327
and then I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5327, which will be designated Senate
Amendment Schedule "A" is offered by Senator Stillman
of the 20th District.

THE CHAIR:

Senator Stillman.

SENATOR STILLMAN:

Thank you, sir. I move its adoption.

THE CHAIR:

Please proceed.

Thank you. This amendment sets forth criteria
that must be incorporated with any request for
proposal issued either by the Department of Correction
or the court support services division of the Judicial
Department for a residential sexual offender treatment
facilities services pursuant to Sections 19 or 20 of
Public Act 08-1JSS. And what this amendment does is
it lay -- as it said, it lays out criteria. The

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departments are putting together proposals and starting to look at siting a sex offender treatment facilities which we have given them the authority to do. But we now need the criteria to be put in place, and again, I move its adoption.

THE CHAIR:

Motion is on adoption of Senate Amendment "A."

Senator Prague.

SENATOR PRAGUE:

Thank you, Mr. President.

Mr. President, I rise in strong support of this amendment. Lines 13 through 21 clearly indicate the parameters within which a facility can be located. It's critically important that these facilities, which are treatment facilities, be located where the communities will be safe. I want to add my support to this. The state has a lot of property that they're not using and it's my strong suggestion that those properties be looked at as possible sites for this sort of facility. Those sites have to meet the requirements of this amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, ma'am.

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Will you remark further on Senate amendment "A?"

Will you remark further?

If not, I will try your minds. All those in favor please signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Oppose, nay.

The ayes have it. The amendment is adopted.

Will you remark further on House Bill 5030?

Senator McDonald.

SENATOR McDONALD:

Thank you, Mr. President.

Mr. President, I just rise in support of the bill as amended and since this item requires additional action in the House, I will not be asking for it to go on consent. Thank you, Mr. President.

THE CHAIR:

Will you remark? Will you remark further on House Bill 5030? If not, Mr. Clerk, please call for roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the

chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Senator Gomes, have you recorded your vote, sir?
Thank you.

Have all the Senators voted? Is your vote properly recorded? If so, the Clerk will close the machine and the Clerk will kindly take the tally and announce the tally please.

THE CLERK:

Motion is on passage of House Bill 5030 as amended by Senate Amendment Schedule "A."

Total number voting	35
Necessary for Adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

(Senator Hartley of the 15th in the Chair.)

THE CHAIR:

Bill passes as amended. Mr. Majority Leader.

SENATOR LOONEY:

Yes, good evening, Madam President. Very good to see you there, Madam President.

THE CHAIR:

Good evening, sir. Thank you.

SENATOR LOONEY:

Madam President, would move for immediate transmittal to the House of Representatives of calendar page 17, Calendar 513, House Bill 5030 as amended.

THE CHAIR:

Without objection. Seeing none, so ordered.

SENATOR LOONEY:

Thank you, Madam President.

If the Clerk would return to the call of the calendar with calendar page 39, an Emergency Certified Senate Bill 493. Calendar 545.

THE CHAIR:

Will the Clerk please call.

THE CLERK:

Turning to calendar page 39, Emergency Certified Bill Calendar Number 545. Bill Number 493, AN ACT REDUCING ELECTRICITY COSTS AND PROMOTING RENEWABLE ENERGY. The Bill is accompanied by Emergency Certification signed by Donald E. Williams, Jr.,

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 10
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2010

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mhr/tmd/gbr JUDICIARY COMMITTEE

March 22, 2010
10:00 A.M.

meetings going on this morning, including the GAE Committee, which I'm a member of, and some members will be coming in and out. But, in any event, we're ready to proceed.

First on our list is Commissioner John Dannaher, from the Department of Public Safety.

COMMISSIONER JOHN A. DANNAHER: Morning, Representative Lawlor, and members of the Judiciary Committee. Thank you for permitting me to be here today. With me is Lieutenant Samuel Izzarelli, of the Connecticut State Police.

HB5030 SB33

I'd like to discuss with you, today, three bills in particular. First is Governor's Bill 34; this, it's AN ACT CONCERNING COMPUTER CRIMES AGAINST CHILDREN. This is an act that's intended to address the conduct of those individuals who solicit children over the Internet to send naked images of themselves over web cams or cell phones. The law doesn't currently address this conduct nor does it address individuals who use those devices to send images of themselves performing sex acts. This section would make that conduct a D felony for a first offense, C for a second, and then a B felony for subsequent offenses.

Section 2 of the -- the bill would make it easier for law enforcement to accomplish the goal of advising the subscriber that an ex-parte warrant had been issued for call-identifying information or subscriber information. Basically, it would allow the officer to present the notice in-hand. The officers often have contact with the subjects of those warrants, but right now this -- the

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statute provides that they be mailed.

Second, would you -- would you like me to go through all three of them and -- okay. The -- the second bill that I'd like to discuss briefly is Governor's Bill 5030. This is an asset forfeiture proposal. It's premised on the experience that -- and I think that those who have prosecuted cases are familiar with this -- surprisingly, many people are more willing to part with their liberty than they are with their money. Their forfeiture can -- can have a more effective deterrent effect than incarceration or at least it can certainly supplement it.

This act would provide that there would be four categories of items forfeited. First would be money used or intended to be used in child sexual exploitation, human trafficking or possession of child pornography. The next section would provide for the forfeiture of property that -- that is obtained through the proceeds of the offenses that I just described. The third would provide for the forfeiture of property that is derived directly or indirectly from the proceeds of those offenses that are listed in the statute -- the proposed statute. And fourth, there'd be forfeiture of property used or intended to be used to commit or facilitate the commission of the offense; that is, if it's being committed for profit.

The forfeiture scheme provides careful protections. It would provide from in rem -- rem action within 90 days of seizing the property. The proof would have to be by clear and convincing evidence. Notice would go to the owner, to interested persons, and to the

victim before the proceeding could begin. The owner's testimony could not be used against him, but he would be subject to perjury or contempt proceedings.

The bill also provides for defenses to forfeiture; for example, that the -- an interested party did not or could not have reasonably known that the money or property is being used in criminal activity.

The bill also would provide that money used legitimately for attorney's fees would not be forfeited, and the profits of the sale of the property that's been forfeited would go first to liens. And that would protect victims of the offense who might bring an action against the perpetrator. It would then go to storage and forfeiture expenses, court costs, and, lastly, the remainder to the General Fund.

This bill also provide -- would provide for training for police, would require a course on sexual assault investigations which recognizes the special aspects of investigating crimes in which, particularly, children are victims. This would also create a new offense criminalizing possession of one or more visual depictions of infliction or threatened infliction of serious physical injury on a child.

I regret to tell you that we have come upon individuals who are interested in what are known as "punishment videos" or "punishment photographs;" individuals who obtain a sexual response from seeing children harmed. This would be a D felony.

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mhr/tmd/gbr JUDICIARY COMMITTEE

March 22, 2010
10:00 A.M.

REP. LAWLOR: -- five or six other people want to
testifying in the first hour and --

COMMISSIONER JOHN A. DANNAHER: That -- that really
does -- that's the summary that I was going to
present.

REP. LAWLOR: Okay, great. Thank you very much.

Can I -- just a couple of questions. Do any of
these three bills that you're displaying favor
of have a fiscal impact and has that been
allowed for in the budget recommended by the
Governor?

COMMISSIONER JOHN A. DANNAHER: Well, starting with
the registration, the -- the sexual -- the --
the registry system that we have in place is
capable of handling all of the new requirements
that we're asking for. And this is a -- a
sexual offender registry that actually came in
at half the budget that was allocated to it. I
returned, I think, half a million dollars of
bond funding, so I don't believe there's a
fiscal impact of a significance with that bill.

SAMUEL F. IZZARELLI, JR.: Asset forfeiture.

HB5030

COMMISSIONER JOHN A. DANNAHER: Well, yeah, the
asset-forfeiture bill actually would
theoretically pay for itself and actually could
produce an excess to -- to the General Fund.
We had a case, an individual a few years ago
who was luring children onto his property with
a lot of equipment that he had, you know,
letting them use tractors and things on the
property. So that kind of a forfeiture creates
-- creates a possibility that it would be
actually generating funds.

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mhr/tmd/gbr

JUDICIARY COMMITTEE

March 22, 2010

10:00 A.M.

REP. LAWLOR: Okay. So apart from that, there's no costs that are foreseen in these proposals?

SAMUEL F. IZZARELLI, JR.: (Inaudible).

COMMISSIONER JOHN A. DANNAHER: Minimal. Minimal, at best.

REP. LAWLOR: And on the -- the question of this proposal to create a crime for transmitting these images to children, isn't that already risk of injury to a minor under state law, doing that kind of -- engaging in that kind of conduct?

SB 34

COMMISSIONER JOHN A. DANNAHER: I think that what we're attempting to do here is specifically address the conduct rather than face a challenge that it doesn't constitute risk of injury. It's also, you know, a -- a specific statement by the Legislature that this conduct is prohibited.

REP. LAWLOR: Yeah, I was just -- having worked with the state law a lot, it's a lot easier to prove risk of injury than anything more specific. I was just wondering if -- if prosecutors are complaining that somehow the risk-of-injury charge is not -- because it's the same penalty; it's ten years in prison. So it would seem like it's easier to use that charge, engaging in any conduct likely to impair the health or morals of a minor.

COMMISSIONER JOHN A. DANNAHER: But I think what would be available to a prosecutor now would be both charges.



STATE OF CONNECTICUT

OFFICE OF VICTIM ADVOCATE
505 HUDSON STREET, HARTFORD, CONNECTICUT 06106

Michelle S. Cruz, Esq.
State Victim Advocate

**Testimony of Michelle Cruz, Esq., State Victim Advocate
Judiciary Committee
Monday, March 22, 2010**

Good morning Senator McDonald, Representative Lawlor and distinguished members of the Judiciary Committee. For the record, my name is Michelle Cruz and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony in **SUPPORT** of:

Raised House Bill No. 5030, *An Act Concerning the Forfeiture of Money and Property Related to Child Sexual Exploitation and Human Trafficking and the Possession of Child Pornography*

Most crime victims are thrown into the criminal justice process with little or no understanding of the process. Most are educated by television, for example Law and Order or CSI; the crime is committed, an arrest is made and the trial is held all within 60 minutes. In real life, even cases that appear to be a slam dunk, take time to properly investigate and further, time to prepare for trial. The OVA hears from many victims of sexual assault that are frustrated with the lengthy investigative process conducted by law enforcement. The OVA spends a great deal of time educating sexual assault victims on the complexities of these cases, including cases involving late reporting or lack of physical or DNA evidence. Many times the OVA will reach out to the law enforcement agency to obtain information regarding a sexual assault investigation and find that the investigation is right on track. Other times, the OVA will find it necessary to meet with the law enforcement agency or others to discuss the progress of the investigation. In all cases, however, the sentiment is quite similar with investigations involving sexual assault--there is a strong need for law enforcement to receive specialized training in the investigation of sexual assault cases.

This type of crime has unique variables associated with both an offender and a victim. Law enforcement should be trained yearly as to the advancements in investigative techniques as well as the best practices for investigating sexual assault cases. For instance, research suggests the best time to interview a sexual assault victim is two days after the assault- at this time, according to the research the victim will be most likely to recall the facts of the assault. Thus an officer, who's unaware of this fact may interview a victim on the day of the assault and not follow up and lose imperative information that would have been gleaned at a later time. In addition, we know that rape victims are reluctant to come forward. When they make that courageous step, it is imperative to not only the success of the prosecution, but more importantly, the victim's healing, that the victims first encounter with law enforcement is compassionate and appropriate.

Furthermore, we still live in a country that blames the victim of sexual assault and is often eager to disbelieve the sexual assault victim. Although it is important to interview the victim and confront any discrepancies that may exist, but with this population, in order to do so, the officer will require specialized training so as not to emotionally and mentally harm the victim. Moreover, Connecticut still has many police departments without the availability of funds for a specialized detective unit to process sexual assault investigations. Therefore, in some of our jurisdictions all sexual assaults will be reported to and investigated by the patrol officers who may or may not have ever participated in a sexual assault investigation or been trained on how to process this type of case.

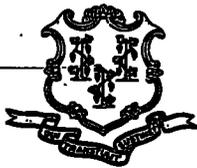
Lastly, the populations of sexual assault victims are often pledged with self blame and doubt, thus, are reluctant to really be in a position to know what information is helpful for police to know in the investigation. A specially trained officer will know what questions to ask to best obtain all information necessary to successfully prosecute the case and preserve the integrity of the case. An officer who is not trained in sexual assault may neglect imperative information which may cause a victim to appear inconsistent or, worse yet, become impeached at trial.

Section 2 of House Bill No. 5030 provides for this training. I urge the committee to support this measure on behalf of sexual assault victims. Thank you for consideration of my testimony.

Respectfully submitted,

Michelle A. Cruz

Michelle Cruz, Esq.
State Victim Advocate



M. JODI RELL
GOVERNOR

STATE OF CONNECTICUT
EXECUTIVE CHAMBERS

Testimony of Governor M. Jodi Rell

Presented to the
Judiciary Committee
March 22, 2010

Regarding HB 5030,
*AAC the Forfeiture of Money and Property Related to Child Sexual Exploitation and
Human Trafficking and the Possession of Child Pornography*

Chairpersons McDonald and Lawlor, Ranking Members Kissel and O'Neill, and distinguished members of the Judiciary Committee:

Thank you for the opportunity to provide testimony on HB 5030: An Act Concerning the Forfeiture of Money and Property Related to Child Sexual Exploitation and Human Trafficking and the Possession of Child Pornography.

It is difficult for most law abiding citizens to understand that there are those in our society who are involved in child pornography. We have heard the excuses from mere curiosity to diagnosis of problem sexual behavior and addiction. Even more upsetting is the fact that there are those in our society who profit in the sale of pornographic images involving children, which is sadly a multimillion dollar a year industry.

We have found in our battle against illicit drugs that we must bring the battle not just to the addicted drug user but also to those who supply illicit drugs. Similarly, this bill seeks to bring the battle against child pornography to those that supply these disturbing images and profit from their sale.

Connecticut has had an existing statutory procedure (C.G.S. 54-36h) in place since 1986 which provides for the forfeiture of assets including moneys and property from those involved in the illegal sale of narcotics. Thus the state has made a public policy decision to seize assets illegally obtained in committing crimes that have devastating social impact. This proposed bill would expand the use of the tool of asset forfeiture in response to other crimes that also have devastating social impact, the sexual exploitation of children and trafficking in human beings.

The exact size and extent of the crimes outlined in this bill is not entirely known. The FBI estimated in a 2006 report on Human Trafficking that yearly profits of nearly 9 million dollars are attributed to human trafficking around the world. The report goes on to estimate that 15,000 to 18,000 people are trafficked each year in the United States. Likewise, in a February 2006 report from Top Ten REVIEWS, (a publisher of Internet reviews), it was estimated that there are 100,000 websites offering child pornography with profits estimated at three billion dollars annually.

As the criminal element continues to seek new ways to utilize computer technologies and the internet to commit and aid in the commission of crimes, the criminal justice system needs to have the training, tools and personnel to recognize and respond to these changes. This bill seeks to address this and would provide some funding to the criminal justice community derived from the assets realized from these crimes.

Thank you for your time and attention to this important public safety issue.

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STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONERJohn A. Danaher III
CommissionerLieutenant Edwin S. Henion
Chief of Staff

March 22, 2010

State Senator Andrew J. McDonald
 Representative Michael P. Lawlor
 Joint Committee on Judiciary
 Room 2500, Legislative Office Building
 Hartford, CT 06106

**HB 5030 AAC THE FORFEITURE OF MONEY AND PROPERTY RELATED TO CHILD SEXUAL
 EXPLOITATION AND HUMAN TRAFFICKING AND THE POSSESSION OF CHILD PORNOGRAPHY**

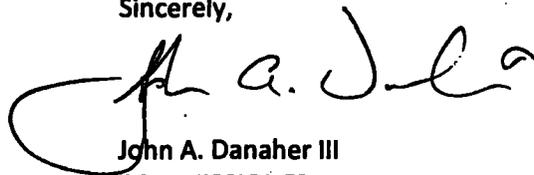
THE DEPARTMENT OF PUBLIC SAFETY SUPPORTS THIS BILL

The concept of Asset Forfeiture is not new to the State of Connecticut. The ability to forfeit monies and property from those involved in the illegal sale of narcotics, pursuant to Conn. Gen.Stat. § 54-36h, has been in existence since 1986.

The enactment of this bill would provide law enforcement agencies and prosecutors battling crimes involving the sexual exploitation of children and trafficking of humans with an effective tool that would attack the very root that motivates those who are involved in these criminal enterprises, greed. The ability of the state to forfeit profits, equipment, vehicles, and buildings that serve as the infrastructure for these criminal activities will constitute a significant step in reducing the opportunity for these enterprises to continue to operate and, it is hoped, will affect the motivation of other individuals to become involved in these crimes. The exact size and extent of the crimes outlined in this bill are not entirely known. The FBI estimated in a 2006 report on Human Trafficking that yearly profits of nearly 9 million dollars are attributed to human trafficking around the world. The report goes on to estimate that 15,000 to 18,000 people are trafficked each year in the United States. Likewise, in a February 2006 report from TopTenREVIEWS, a publisher of Internet reviews, it was estimated that there are 100,000 websites offering child pornography with profits estimated at three billion dollars annually.

As the criminal element continues to seek new ways to utilize the internet and other computer technologies to commit and aid in the commission of crimes, the criminal justice system needs to have the added ability, through this proposed forfeiture tool, to deprive this criminal element of the financial resources it needs to commit crimes against children.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Danaher III". The signature is fluid and cursive, with a large loop at the beginning and a long tail.

John A. Danaher III
COMMISSIONER

**JOINT
STANDING
COMMITTEE
HEARINGS**

**JUDICIARY
PART 11
3349 – 3695**

2010

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State of Connecticut
HOUSE OF REPRESENTATIVES
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MEMBER
 APPROPRIATIONS COMMITTEE
 ENERGY AND TECHNOLOGY COMMITTEE
 PUBLIC SAFETY AND SECURITY COMMITTEE

Testimony in Support of:

SB 34
HB 503D

**H.B. No. 5486 (RAISED) AN ACT CONCERNING RESIDENCY RESTRICTIONS FOR REGISTERED
 SEXUAL OFFENDERS**
AND
H.B. NO. 5533 (RAISED) AN ACT CONCERNING SEXTING

Judiciary Committee
March 22, 2010

Good morning Chairman Senator McDonald, Chairman Representative Lawlor, Ranking members and members of the Judiciary Committee. I am State Representative Rosa C. Rebimbas of the 70th District.

H.B. No. 5486

I am here in support of H.B. No. 5486 "*An Act Concerning Residency Restrictions for Registered Sexual Offenders.*" If you ask the average CT resident whether or not we have a law on the books that restricts where a sexual offender can live, more often than not the response will be yes. As of 2007, twenty-seven other states have laws of this kind. Consequently, many CT residents assume we have similar laws.

Many people are familiar with the online sexual offender registry list and frequently view the list when they are in the process of looking for a place to rent or home to purchase. By searching the list they can make informed decisions as to where they want to live with their children, where they want their children to be educated and where they would receive the best care for their children.

Every parent wants to create a safe environment, where his or her child can learn, play and walk free from the threat of a sexual offender. Unfortunately, parents cannot be with their children every moment of every day in order to safe guard their children. This bill would give parents the added assurance that a sexual offender will not be living in a house or apartment within close proximity to where their child has to walk past everyday to get to and from school. This bill would give parents the added assurance that a sexual offender will not live close to a school or day care facility where their child attends or plays outside at. This bill will considerably lessen the probability of an unsupervised child running into a sexual offender on their way to and from school.

Page Two

There is no constitutional or rational reason why a sexual offender needs to reside near a school or daycare facility. The requirement in this bill that the sexual offender cannot establish a residence within two thousand feet of a school or daycare facility is not overly restrictive. Many other state laws restrict where a sexual offender can work or loiter. Some legislation goes farther to include parks or other places "where kids gather" as restricted areas for sexual offenders. This proposed bill does not include these other items in the hopes of gaining support for its passage to address an issue that has been overlooked for much too long.

Moreover, this bill does not displace sexual offenders who may already reside within the restricted areas. If sexual offenders currently reside within two thousand feet of these facilities they have the right to stay there. This bill also does not displace a sexual offender whose residence comes within the restricted area by virtue of a new school or day care facility being established for the first time. If a sexual offender were to violate this proposed law then he or she will be guilty of a class A misdemeanor. This is a very small price to pay for someone who knowing violates this law and puts our children in possible harms way. It has been much too long that CT has ignored this issue. We need to become proactive and not just reactive when we hear of a tragic abduction or sexual crime upon an unsuspecting CT child.

H.B. No. 5533

I am also here in support of H.B. No 5533, "An Act Concerning Sexting" and I respectfully request the Committee's support of this bill.

The concept of this bill was created after many discussions with a variety of law enforcement officials, including members of the CT computer crimes unit, some State's attorneys, and numerous students, parents and school administrators at public informational forums.

Ignorance of the law is not a defense for violating the law, but at times minor children do foolish acts without appreciating the consequences of their actions. This proposed bill creates a lesser category for punishment for minors who are thirteen years of age or older but under eighteen years of age, who may knowingly possess and transmits any visual depiction of child pornography by means of an electronic communication device.

This proposed bill will truly allow the punishment to fit the crime. This bill provides another option for prosecutors to hold minors accountable for their actions, where probable cause exists, without having to charge the minor child under the existing laws of child pornography, which carries with it a felony conviction.

This bill is very important in updating our penal code by incorporating electronic communication devices and identifying unlawful acts that minor children are committing without knowing it. This bill takes a proactive role in recognizing the devastation that our minor children would face, if they were convicted under the current child pornography laws. This would mean that a minor child would have a felony on their record and he or she would have to register as a sexual offender.

For all of the above stated reasons I again respectfully request and encourage your support for H.B. No. 5486 and H.B. No. 5533.

I also support S.B. No. 34 and H.B. No 5030.

Respectfully submitted,

Rosa C. Rebimbas
State Representative, 70th District