

**HB**

**34**

**HFIN**

**FILE**

~~adopted 4/30/99~~

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 34(FIN)

1 Page 1, line 8 - 10:

2 Delete "a murder, attempted murder, kidnapping, sexual penetration without consent,  
3 or assault where serious physical injury is inflicted on a child under 16 years of age by  
4 another;"

5 Insert "the

6 (A) murder or attempted murder of a child by another;

7 (B) kidnapping of a child by another;

8 (C) sexual penetration by another

9 (i) of a child without consent of the child;

10 (ii) of a child that is mentally incapable;

11 (iii) of a child that is incapacitated; or

12 (iv) of a child that is unaware that a sexual act is being

13 committed; or

14 (D) assault of a child by another causing serious physical injury

15 to the child;"

16 Page 2, following line 8:

17 Insert a new subsection to read:

18 "(c) In this section,

19 (1) "incapacitated" has the meaning given in AS 11.41.470;

20 (2) "mentally incapable" has the meaning given in AS 11.41.470;

21 (3) "sexual act" has the meaning given in AS 11.41.470;

22 (4) "without consent" has the meaning given in AS 11.41.470."

23 Reletter the following subsection accordingly.

FISCAL NOTE

No: 1

Bill Version: CSHB 34 (JUD)

(H) Publish Date: 4/21/99

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: "An Act relating to the crime of misprision of a crime against a child"  
Sponsor: Representative Dyson  
Requestor: (H)JUD

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2 002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

CAPITAL EXPENDITURES	**	**	**	**	**	**
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CHANGE IN REVENUES ( )	**	**	**	**	**	**
------------------------	----	----	----	----	----	----

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 98) cost: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director  
Division: Public Defender Agency

Phone: (907) 264-4414  
Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe Jr.  
Agency: Department of Administration

Date: 4/2/99

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Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

April 28, 1999

**SUBJECT:** CSHB 34(FIN)

**TO:** Representative Eldon Mulder, Co-Chair  
Representative Gene Therriault, Co-Chair  
House Finance Committee

**FROM:** Pamela Finley   
Revisor of Statutes

Enclosed is the CS you requested. I have two comments about the amendment adopted by the Finance Committee.

In AS 11.56.765(a)(1), page 1, line 10, it is not clear to me whether the added phrase "where serious physical injury is inflicted on a child under 16 years of age by another" applies only to assault or whether it also applies to the other listed crimes, including attempted murder and kidnapping. (Attempted murder and kidnapping could easily occur without serious physical injury to the child.)

Also, if the added phrase is not intended to apply to all the listed crimes, then there is no explicit requirement that the crimes of murder, attempted murder, kidnapping, or sexual penetration without consent actually be committed against a child under 16. (That requirement is more or less implied by (a)(2), but it should be stated more clearly if that is what is intended.)

If you have any questions about this matter, please contact Jerry Luckhaupt, the drafter. (I am writing this memo only because Jerry is busy drafting floor amendments.)

PF:glc  
99-210.glc

Enclosure

0-LS0241\H  
4/27/98

AMENDMENT

1 Adopted

OFFERED IN THE HOUSE

BY Rep. DAVIES

TO: CSHB34 (JUD), Draft version "H "

Page 1, Line 9

After "murder," delete rest of (1) and insert, "attempted murder, kidnapping, sexual penetration without consent, or assault where serious physical injury is inflicted on a child under 16 years of age, by another:"

Page 1, Line 11

Change "18" to "16"

4/30/99

I-I.S02411.3  
Luckhaupt  
4/29/99

new  
AMENDMENT I

OFFERED IN THE HOUSE  
TO: CSHB 34(FIN)

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1-1.S024W.3

1 Reletter the following subsection accordingly.

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 21, 1999

FURTHER REFERRALS:

Date of Committee Action: 4/30/99

The FINANCE Committee considered:

HB 34

HOUSE BILL NO. 34

REPORTING CRIMES AGAINST CHILDREN

"An Act relating to the crime of misprision of a crime against a child."

recommends it be replaced with the following committee substitute CS HB 34 (FIN)  the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

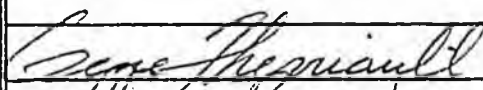

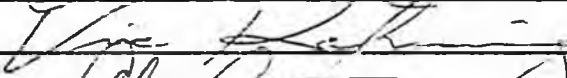
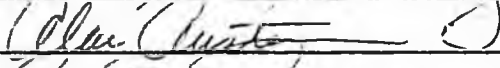
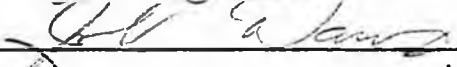
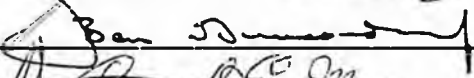


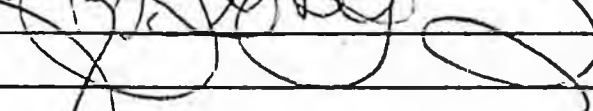
APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) \* DDA \_\_\_\_\_

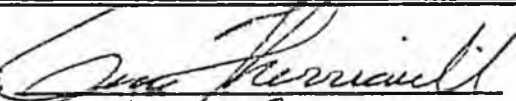
fiscal note(s) \* L.C.W. 4/21/99 \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Theriault	X			
	Bunde	✓			
	Kohring	X			
	Austhaman	X			
	J. Davis	X			
	Grussendorf	X			
	Moses			X	
	G. Davis	X			
	Foster	X			

CO-CHAIR'S SIGNATURE

  
Theriault

# FISCAL NOTE

Bill Version: CSHB 34 (JUD)

(H) Publish Date: 4/21/99

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title <u>An Act relating to the crime of misprison</u>	BRU	Criminal Division; Civil Division
of a crime against a child.	Component	1st-4th Judicial Districts; Criminal
Sponsor <u>Representative Dyson</u>		Appeals/Special Lit; Human Services
Requester <u>House Judiciary Committee</u>	Component Serial No.	2198/99/2261/79/01/03/08

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

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1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 34 would make witnessing the commission of a listed offense against a minor, and not reporting it to law enforcement immediately, itself a crime.

The Department of Law has no way to estimate how many cases this new offense might generate. Anytime a new crime is created, there is a cost for prosecution. How much that is, however, depends on the volume of new cases. Until some experience is gained, the department cannot estimate the fiscal impact of this bill.

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner Bruce M. Botelho, Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date/Time 4/2/99, 9:53 AM  
 Date 4/2/99

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**FISCAL NOTE**

STATE OF ALASKA

BILL NO. CSHB 34(JUD)

1999 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the crime of misprision of a crime against a child"  
 Sponsor: Representative Dyson  
 Requestor: (H)FIN

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

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PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	**	**	**	**	**	**
<b>CAPITAL EXPENDITURES</b>	**	**	**	**	**	**
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1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	**	**	**	**	**	**

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**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)  
 See attached.

Prepared by: Barbara Brink, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe Jr.  
 Agency: Department of Administration

Date: 4/26/99

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FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. CSHB 34(JUD)

ANALYSIS: (continued)

This bill makes it a crime if a person witnesses a serious crime against a child, but fails to report it. The crime is a class A misdemeanor.

Under current law, it is illegal to "render assistance" to someone who has committed a crime. (Hindering Prosecution, AS 11.56.770-.780) Rendering assistance is broadly defined and includes providing or aiding in transportation or providing other means of avoiding discovery or apprehension. Under this bill, for the first time in Alaska, a witness could be found guilty for failing to report a crime.

It is impossible to predict the number of cases that may arise under this bill. However, there are certain to be complicated and difficult legal challenges that the Public Defender Agency would be obligated to raise.

For example, if there is a "reasonable possibility" that a person may face criminal charges, the privilege against self-incrimination would apply. The applicability of privileges to this statute would have to be litigated. Also, there may equal protection problems. A person who is criminally responsible would be able to ignore this law, but an innocent person could end up facing charges.

Therefore, although there may be few cases brought, the cases would present difficult and time-consuming legal challenges for Public Defender attorneys.



Alaska State Legislature

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Juneau, Alaska 99801-1182  
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## REPRESENTATIVE FRED DYSON

### CSHB 34 Sponsor Statement

**"An Act relating to the crime of failure to report the commission or attempted commission of certain crimes against children."**

Recently, in a Las Vegas casino, a 7-year-old child was assaulted and then murdered in a public restroom. The perpetrator's friend left the restroom as the assault was taking place yet did nothing to assist the victim. In New Jersey, a 31-year-old woman was beaten with a baseball bat while the perpetrators' three friends watched from a nearby car.

Six states have "Good Samaritan" laws, South Dakota, West Virginia, Vermont, Minnesota, Rhode Island and Massachusetts. Nevada and New Jersey do not; the witnesses to the above crimes could not be charged.

HB 34 makes it a Class A misdemeanor to not report an in-progress felonious murder, kidnapping, sexual assault, or assault on a child. This also includes attempted felonious assaults. Of course, we all hope that all citizens would immediately go to the aid of that child. However, some citizens are intimidated by violence and might be afraid of retribution. HB 34 would set the minimum standard of reporting the crime-in-progress to public safety officials who would then be able to come to that child's aid.

The law does many things in our culture, not the least of which is the function of stating and defining our cultural values and standards. I do not expect this proposed law to be used often, but it will send the message that it is not acceptable to stand by and do nothing when a child is being beaten, raped, or killed. A few well-publicized prosecutions of flagrant violators who refuse to help a child will have a salutary affect in our culture.

- E-mail -  
Representative\_Fred\_Dyson  
@Legis.state.ak.us

- Internet -  
<http://www.akRepublicans.org>

a violation of subdi-

## CHAPTER 604A

### CIVIL LIABILITY OF GOOD SAMARITAN, CHARITY, PUBLIC ACTIVITY

	GOOD SAMARITANS		604A.21	Recreational land use; definitions
604A.01	Good Samaritan law		604A.22	Owner's duty of care or duty to give warnings
604A.015	School bus driver immunity from liability		604A.23	Owner's liability
604A.02	Aid to shooting victim		604A.24	Liability; leased land, water filled mine pits
604A.03	Miscellaneous Good Samaritan laws		604A.25	Owner's liability; not limited
	VOLUNTEER AND CHARITABLE ACTIVITIES		604A.26	Land user's liability
604A.10	Liability of food donors		604A.27	Dedication, easement
604A.11	Volunteer athletes, coaches and officials; physicians and trainers; immunity from liability			OTHER ACTIVITIES
604A.12	Livestock activities; immunity from liability		604A.30	Breath alcohol testing device in liquor establishments
604A.13	Miscellaneous volunteer and charitable activities		604A.301	Limited liability for certain nonprofit treatment facilities
	PUBLIC BENEFIT OR FUNCTION ACTIVITIES		604A.31	Miscellaneous public benefit or function
604A.20	Policy		604A.32	Alternative dispute resolution immunity

#### GOOD SAMARITANS

##### 604A.01 GOOD SAMARITAN LAW.

Subdivision 1. **Duty to assist.** A person at the scene of an emergency who knows that another person is exposed to or has suffered grave physical harm shall, to the extent that the person can do so without danger or peril to self or others, give reasonable assistance to the exposed person. Reasonable assistance may include obtaining or attempting to obtain aid from law enforcement or medical personnel. A person who violates this subdivision is guilty of a petty misdemeanor.

Subd. 2. **General immunity from liability.** (a) A person who, without compensation or the expectation of compensation, renders emergency care, advice, or assistance at the scene of an emergency or during transit to a location where professional medical care can be rendered, is not liable for any civil damages as a result of acts or omissions by that person in rendering the emergency care, advice, or assistance, unless the person acts in a willful and wanton or reckless manner in providing the care, advice, or assistance. This subdivision does not apply to a person rendering emergency care, advice, or assistance during the course of regular employment, and receiving compensation or expecting to receive compensation for rendering the care, advice, or assistance.

(b) For the purposes of this section, the scene of an emergency is an area outside the confines of a hospital or other institution that has hospital facilities, or an office of a person licensed to practice one or more of the healing arts under chapter 147, 147A, 148, 150A, or 153. The scene of an emergency includes areas threatened by or exposed to spillage, seepage, fire, explosion, or other release of hazardous materials, and includes ski areas and trails.

(c) For the purposes of this section, "person" includes a public or private nonprofit volunteer firefighter, volunteer police officer, volunteer ambulance attendant, volunteer first provider of emergency medical services, volunteer ski patroller, and any partnership, corporation, association, or other entity.

(d) For the purposes of this section, "compensation" does not include payments, reimbursement for expenses, or pension benefits paid to members of volunteer organizations.

(e) For purposes of this section, "emergency care" includes providing emergency medical care by using or providing an automatic external defibrillator, unless the person on whom the device is to be used objects. "Automatic external defibrillator" means a medical device heart monitor and defibrillator that:



OCT 28 1998

LAS VEGAS REVIEW JOURNAL

TODAY'S  
HEADLINES

Wednesday, September 30, 1998

## Iverson slaying prompts 'good Samaritan' bill

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#### Associated Press

TRENTON, N.J. -- An assemblyman joined a growing chorus of state and federal lawmakers who want to make witnessing a violent crime and not reporting it to police a criminal act.

Assemblyman William Payne, D-Essex, introduced on Tuesday the "good Samaritan" bill.

Payne said the bill was inspired by Sherrice Iverson, a 7-year-old California girl who was raped and strangled in a restroom stall of a Nevada casino in May 1997.

Jeremy Strohmeyer, 19, of Long Beach, Calif., pleaded guilty to kidnapping, sexually assaulting and killing Iverson at the Primm Valley hotel, 43 miles south of Las Vegas.

Strohmeyer's friend David Cash Jr. witnessed the girl's kidnapping but left the restroom as Strohmeyer assaulted her.

The case has spurred public interest in "good Samaritan" laws, which would require bystanders to call police if they witness a violent crime.

The case also has prompted federal legislation. A Texas congressman, Democrat Nick Lampson, on Sept. 9 introduced the Sherrice Iverson Act.

The federal bill would require states to enact criminal penalties against witnesses who do not report sexual crimes against children.

Nevada authorities said they could not charge Cash because to witness a crime and do nothing about it is not illegal in the state.

Four states -- Vermont, Massachusetts, Rhode Island and Minnesota -- have good Samaritan laws, Payne said.

The Assembly bill is identical to a state Senate bill introduced Sept. 17.

The Senate bill stems from an August attack in New Jersey.

Two men beat a 31-year-old Woodbridge woman with a baseball bat and threatened her with a gun in an attempt to steal her car from her mother's driveway.

While the two men pummeled the woman, three of their friends sat in another car and watched.

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10/27/98 4:03 PM

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Pres. First City Chapter

Robert Claus, Member  
Craig  
Pres. Prince of Wales Chapter

John Lucking, Jr., Member  
Unalaska  
Pres. Aleutian Islands Chapter

Representative Dyson  
Alaska State Legislature  
State Capital  
Juneau, Alaska 99801-1182

February 19, 1999

FEB 23 1999

Dear Representative Dyson,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse HB 34.

Please contact us if there is anything we can do to assist you with this bill as it proceeds through the legislative process. You may contact us at the APOA office in Anchorage at 277-0515.

Thank you for sponsoring this legislation.

Sincerely,

John Charbonneau  
State President  
Alaska Peace Officers Association

# FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 34

1999 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the crime of misprision of a crime against a child"  
 Sponsor: Representative Dyson  
 Requestor: (H)JUD

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

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(Thousands of Dollars)

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CONTRACTUAL						
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GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	**	**	**	**	**	**

CAPITAL EXPENDITURES	**	**	**	**	**	**
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CHANGE IN REVENUES ( )	**	**	**	**	**	**
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(Thousands of Dollars)

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PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Robert Poe Jr.  
 Agency: Department of Administration

Date: 4/12/99

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STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HB 34

Revision Date/Time (Note if correction) _____	Dept. Affected <u>Law</u>
Title <u>An Act relating to the crime of misprison</u>	BRU <u>Criminal Division; Civil Division</u>
<u>of a crime against a child.</u>	Component <u>1st-4th Judicial Districts; Criminal</u>
Sponsor <u>Representative Dyson</u>	<u>Appeals/Special Lit; Human Services</u>
Requester <u>House Judiciary Committee</u>	Component Serial No. <u>2198/99/2261/79/01/03/C 8</u>

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 HB 34 would make witnessing the commission of a listed offense against a minor, and not reporting it to law enforcement immediately, itself a crime.

The Department of Law has no way to estimate how many cases this new offense might generate. Anytime a new crime is created, there is a cost for prosecution. How much that is, however, depends on the volume of new cases. Until some experience is gained, the department cannot estimate the fiscal impact of this bill.

Prepared by <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>4/2/99, 9:53 AM</u>
Approved by Commissioner <u>Bruce M. Botelho</u> <i>Bruce M. Botelho</i> , Attorney General	Date <u>4/2/99</u>
Agency <u>Department of Law</u>	

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# FISCAL NOTE

Bill Version: CSHB 34 (JUD)

(H) Publish Date: 4/21/99

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title <u>An Act relating to the crime of misprison</u>	BRU	Criminal Division; Civil Division
of a crime against a child.	Component	1st-4th Judicial Districts; Criminal
Sponsor <u>Representative Dyson</u>		Appeals/Special Lit; Human Services
Requester <u>House Judiciary Committee</u>	Component Serial No.	2198/99/2261/79/01/03/08

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner Bruce M. Botelho, Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date/Time 4/2/99, 9:53 AM  
 Date 4/2/99

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