

**HB**

**34**

4/9

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Luckhaupt  
4/8/99

COPY

CS FOR HOUSE BILL NO. 34( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE DYSON

A BILL

FOR AN ACT ENTITLED

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

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 11.56 is amended by adding a new section to read:

5 Sec. 11.56.765. Failure to report a violent crime committed against a child.

6 (a) A person commits the crime of failure to report a violent crime committed against  
7 a child if the person witnesses <sup>what the person knows or reasonably knows</sup> a murder, kidnapping, sexual assault, or assault that is  
8 punishable as a felony of a child under 18 years of age, or an attempt to commit one  
9 of those crimes, by another and

10 (1) knows or reasonably should know that the child is under 18 years  
11 of age; and

12 (2) does not in a timely manner report that crime to a peace officer or  
13 law enforcement agency.

14 (b) In a prosecution under this section, it is an affirmative defense that the

1 defendant

2 (1) did not report in a timely manner because the defendant reasonably  
3 believed that doing so would have exposed the defendant or others to a substantial risk  
4 of physical injury; or

5 (2) acted to stop the commission of the crime and stopped the  
6 commission of the crime.

7 (c) Failure to report a violent crime committed against a child is a class A  
8 misdemeanor.

4/8

**CS FOR HOUSE BILL NO. 34( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE DYSON**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the crime of failure to report the murder or kidnapping of**  
2 **a child or to come to the aid of the child."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1. AS 11.56 is amended by adding a new section to read:**

5 **Sec. 11.56.765. Failure to report the murder or kidnapping of a child or**  
6 **to come to the aid of the child. (a) A person commits the crime of failure to report**  
7 **the murder or kidnapping of a child or to come to the aid of the child if the person**  
8 **witnesses the murder, attempted murder, kidnapping, or attempted kidnapping of a**  
9 **child under 18 years of age by another and**

10 **(1) knows or reasonably should know that the child is under 18 years**  
11 **of age; and**

12 **(2) does not**

13 **(A) in a timely manner report that crime to a peace officer or**  
14 **law enforcement agency; or**

1  
2  
3  
4  
5  
6  
7

(B) immediately come to the aid of the child.

(b) In a prosecution under this section, it is an affirmative defense that the defendant did not report in a timely manner and did not come to the aid immediately because the defendant reasonably believed that doing so would have exposed the defendant <sup>or others</sup> to a substantial risk of physical injury.

(c) Failure to report the murder or kidnapping of a child or to come to the aid of the child is a class A misdemeanor.

# FISCAL NOTE

**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 of a crime against a child.</u>	BRU <u>Criminal Division; Civil Division</u>
Sponsor <u>Representative Dyson</u>	Component <u>1st-4th Judicial Districts; Criminal Appeals/Special Lit; Human Services</u>
Requester <u>House Judiciary Committee</u>	Component Serial No. <u>2198/99/2261/79/01/03/08</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 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  
1999 LEGISLATIVE SESSION

BILL NO. HB 34

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						
<b>TOTAL OPERATING</b>	**	**	**	**	**	**
<b>CAPITAL EXPENDITURES</b>	**	**	**	**	**	**
<b>CHANGE IN REVENUES ( )</b>	**	**	**	**	**	**

**FUND SOURCE:** (Thousands of Dollars)

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

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 Pue Jr.  
 Agency: Department of Administration

Date: 4/2/99

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## Bill Text



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BILL ID: CSSSSB 5(JUD)

00 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 5(JUD)

01 "An Act relating to the crime of misprision of felony."

02 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

03 \* Section 1. AS 11.56 is amended by adding a new section to read:

04 **Sec. 11.56.765. Misprision of felony.** (a) A person, other than the victim,  
05 commits the crime of misprision of felony if the person witnesses the commission by  
06 another of murder in the first degree, murder in the second degree, kidnapping, sex  
07 assault in the first degree, sexual abuse of a minor in the first degree, or arson  
08 first degree or has knowledge of the actual commission by another of murder in the  
09 first degree, murder in the second degree, kidnapping, sexual assault in the first  
10 sexual abuse of a minor in the first degree, or arson in the first degree and does  
11 in a timely manner report that crime to a peace officer or law enforcement agency.

12 (b) In a prosecution under this section,

13 (1) it is an affirmative defense that the defendant did not report in a  
14 timely manner because the defendant reasonably believed that doing so would have  
01 exposed the defendant to a substantial risk of physical injury;

02 (2) the state does not have to prove that the defendant knew the degree  
03 of the crime not reported.

04 (c) Misprision of felony is a class A misdemeanor.

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Bill Root:

Display History/Action

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BASIS Last Updated 4/05/99 11:30 AM

## AMENDMENT TO HB-34

Add a new paragraph ©

© it is an affirmative defense that the defendant did not report in a timely manner because the defendant reasonably believed that doing so would have exposed the defendant to a substantial risk of physical injury.

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 34

1999 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill makes it a crime if a person witnesses a serious crime against a child, but fails to immediately report the crime. The crime is a class C felony.

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 of a felony 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, there would be difficult and time-consuming legal challenges Public Defender attorneys would have to work on.



Alaska State Legislature

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## REPRESENTATIVE FRED DYSON

### MEMORANDUM

March 9, 1999

To: Representative Pete Kott, Chair  
Judiciary Committee

From: Representative Fred Dyson 

Subject: Request to schedule HB 34

Please schedule a Judiciary Committee hearing on HB 34, "An Act relating to the crime of misprision of a crime against a child." Attached is a Sponsor Statement for your review.

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

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

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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Pres. Aleutian Islands Chapter

February 19, 1999

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

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



Alaska State Legislature

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## REPRESENTATIVE FRED DYSON

### HB 34 Sponsor Statement

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

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.

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

HB 34 makes it a Class C felony to not report an in-progress felonious assault on a child. 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  
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OCT 28 1998

LAS VEGAS REVIEW JOURNAL



Wednesday, September 30, 1998

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# Iverson slaying prompts 'good Samaritan' bill

## 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

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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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# Teen gets life for murdering girl, 7, in casino

By TIM DAHLBERG

The Associated Press

**LAS VEGAS** — A former honor student avoided the death penalty by pleading guilty Tuesday to molesting and strangling a 7-year-old girl in a casino toilet stall.

Under a plea bargain, Jeremy Strohmeyer, 19, will go to prison for the rest of his life for the 1997 slaying of Sherrice Iverson.

The Long Beach, Calif., teen-ager agreed to the plea bargain hours before he was to go on trial, admitting that he sexually assaulted the girl with his fingers and choked her over the Memorial Day weekend at the Primadonna Casino on the California-Nevada state line.

Not only did prosecutors have his confession, but video surveillance cameras had captured Strohmeyer going into the bathroom with the little girl in a game of hide-and-seek.

District Attorney Stewart Bell said that "death verdicts are always hard to get" and that the plea assures Strohmeyer will be off the street. Strohmeyer will be sentenced next month to life in prison without parole.

Defense attorney Leslie Abramson called Strohmeyer a good boy until seven months before the killing, when "evil influences" took over his life. She listed drugs, Internet

pornography and friends like David Cash Jr., whom she suggested "is not a witness but a co-perpetrator in this case."

Cash, 19, told authorities he entered the restroom a few minutes after his friend, peered over the wall of an adjoining stall and saw Strohmeyer with his hand over Sherrice's mouth, muffling her screams. Cash said he told Strohmeyer to let her go and then left the restroom.

Cash was not charged because Nevada has no "Good Samaritan" law requiring someone who witnesses a crime to try to stop it or to seek help from law enforcement.

Sherrice's mother, angered by Cash's inaction, led a petition drive that gathered more than 30,000 signatures in support of a Good Samaritan law scheduled to be introduced in Congress on Wednesday.

The case also drew attention to the safety of children in casinos. The Los Angeles girl had been left in the casino arcade with her older brother while their father, LeRoy Iverson, gambled in the early-morning hours.

Security guards said that three times, they found the girl alone and told her father to come get her.



JIM LAURIE / Las Vegas Review Journal

Former honor student Jeremy Strohmeyer, with attorney Leslie Abramson at his side, pleaded guilty Tuesday hours before his trial was to begin.

OCT 28 1998

105TH CONGRESS  
2D SESSION

# H. R. 4531

To amend the Child Abuse Prevention and Treatment Act to require States receiving funds under section 106 of such Act to have in effect a State law providing for a criminal penalty on an individual who fails to report witnessing another individual engaging in sexual abuse of a child.

RECEIVED  
JAN 27 1999

Ans'd.....

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 1998

Mr. LAMPSON (for himself, Mr. SANDLIN, and Mr. CRAMER) introduced the following bill; which was referred to the Committee on Education and the Workforce

---

## A BILL

To amend the Child Abuse Prevention and Treatment Act to require States receiving funds under section 106 of such Act to have in effect a State law providing for a criminal penalty on an individual who fails to report witnessing another individual engaging in sexual abuse of a child.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Sherrice Iverson Act".

---

1 SEC. 2. REQUIREMENT ON STATES RECEIVING GRANTS FOR  
2 CHILD ABUSE AND NEGLECT PREVENTION  
3 AND TREATMENT PROGRAMS.

4 (a) IN GENERAL.—Section 106(b)(2) of the Child  
5 Abuse Prevention and Treatment Act (42 U.S.C.  
6 5106a(b)(2)) is amended—

7 (1) in subparagraph (C), by striking “and” at  
8 the end;

9 (2) in subparagraph (D), by striking the period  
10 at the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(E) an assurance in the form of a certifi-  
13 cation by the chief executive officer of the State  
14 that the State has in effect and is enforcing a  
15 State law providing for a criminal penalty on an  
16 individual 18 years of age or older who fails to  
17 report to a State or local law enforcement offi-  
18 cial that the individual has witnessed another  
19 individual in the State engaging in sexual abuse  
20 of a child.”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 subsection (a) shall take effect on December 31, 2004.

○