

SB

5

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/5/99

FURTHER: 3/16/99

DATE TURNED IN TO OFFICE: 16 March 99

Finance Committee considered **SPONSOR SUBSTITUTE FOR SENATE BILL NO. 5**

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

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS SS SBS (JUD)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Roller E (JUD)</i>	✓	<i>Lynne Meyer</i>	✓		
		<i>Al Adams</i>	X		
<i>Edna White</i>	✓				
<i>Brew D. Luman</i>	✓				
<i>Robert Donley</i>	✓				
<i>Walter ...</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Corrections	3/4	2/1/99	*
Att. Car	3/9	2/2/99	*
Law	3/5	2/2/99	*
Admin. OPF		2/3/99	*
Admin. Public Def.		2/3/99	*

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

3/16/99
BILL NO. CSSSSB 5(JUD)

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date _____ Dept. Affected Alaska Court System
 Title Misprision of felony BRU Alaska Court System
 Component Trial Courts
 Sponsor Senator Pearce
 Requester Senate Finance Component Serial No. 769

Expenditures/Revenues (Thousands of Dollars)

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						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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 (Specify Type)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY99) cost: None

POSITIONS

Full-time						
Part-time						
Temporary						

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

Under CSSSSB 5(JUD), a person commits the crime of misprision of a felony if he or she witnesses or has actual knowledge of the commission by another of first or second degree murder, kidnapping, sexual assault in the first degree, sexual abuse of a minor in the first degree, or arson in the first degree and does not report the crime in a timely manner. It is an affirmative defense if the the person reasonably believed that reporting the crime would expose him or her to substantial risk of physical injury. Misprision of a felony is a class A misdemeanor. Although this bill is likely to have some impact on the court system , current estimates suggest that it will not be significant. However, should this assumption turn out to be in error, the court system may return to the legislature for additional funding.

Prepared by: Doug Wooliver, Administrative Attorney
 Agency: Alaska Court System

Approved by: Stephanie J. Cole, Administrative Director
 Agency: Alaska Court System

Phone: 264-8265
 Date/Time: 3/9/99 3:36 PM
 Date: 3/9/99

FISCAL NOTE

3/16/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

No. 6
Bill Version: CSSSSB 5 (Jud)
(S) Publish Date: 3-5-99

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 felony.	Component	1st-4th Judicial Districts; Criminal
Sponsor <u>Senator Pearce</u>		Appeals/Special Lit; Human Services
Requester <u>Senate 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						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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 (Specify Type)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 CSSSSB 5 (JUD) would make it a class A misdemeanor to witness the commission of an unclassified felony against a person or arson in the 1st degree, or having knowledge of the actual commission of an unclassified felony against a person or arson in the 1st degree by another, and not reporting it to law enforcement.

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
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Bolger, Attorney General
 Agency Department of Law

Phone 465-5370
 Date/Time 3/5/99, 8:56 AM
 Date 3/5/99

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FISCAL NOTE

No. 7

3/16/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Bill Version: CS SSSB 5 (Jud)
(S) Publish Date: 3-5-99

Revision Date/Time (Note if correction) 3/4/99 Dept. Affected Department of Corrections
 Title An Act relating to the crime of misprision of felony. BRU Administration and Operations
 Component All
 Sponsor Senator Pearce
 Requester Senate Judiciary Committee Component Serial No. #0694

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						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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 (Specify Type)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY99) cost: ***

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SSSB 5 would make witnessing the commission of a felony or having knowledge of the actual commission of a felony by another person a crime punishable as an A misdemeanor (up to 1 year incarceration) if not reported immediately.

Based on discussions with the Department of Law, we were unable to estimate the impact for the Department of Corrections. DOC will have to evaluate the costs after time has passed and the number of cases per year are determined and the sentences evaluated. Therefore, DOC is submitting an indeterminate fiscal at this time.

Prepared by Bruce Richards Phone 465-3307
 Division Commissioner's Office Date/Time 3/4/99 1:31 PM
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 3/4/99
 Agency Department of Corrections

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FISCAL NOTE No. 2

3/16/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: SSSB 5
(S) Publish Date: 3-5-99

Revision Date/Time (Note if correction) _____ Dept. Affected Administration _____
 Title "An Act relating to the crime of mis prison of felony..... BRU Legal and Advocacy Services
 Component Office of Public Advocacy
 Sponsor Senator Pearce
 Requester (S) JUD Component Serial No. 43

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						
TOTAL OPERATING	**	**	**	**	**	**

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	**	**	**	**	**	**
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY99) cost: \$ _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Office of Public Advocacy is currently unable to provide precise cost data.

Prepared by Brant McGee, Public Advocate Phone 269-3500
 Division Office of Public Advocacy Date/Time _____
 Approved by Commissioner Robert Poe Jr. Date 2/3/99
 Agency Administration

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FISCAL NOTE

3/16/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 1
Bill Version: SSSB 5
(S) Publish Date: 3-5-99

Revision Date: 1/27/99
Title: "An Act relating to the crime of misprision of felony."
Sponsor: Senator Pearce
Requestor: (S) 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	**	**	**	**	**	**
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.)

This bill creates a new crime if a person witnesses or has knowledge of a felony and does not immediately report that crime to the police. The crime is a C felony if the crime not reported is an unclassified, A, or B felony crime against a person; otherwise it is an A misdemeanor.

It is impossible to predict the numbers of cases that may arise under this scheme. Turning every citizen who may be an inadvertent witness into a potential felon may have huge consequences.

Challenges based upon constitutional rights of privacy and protections against self-incrimination are certain. Problems of proof concerning what "knowledge" the accused possessed, what level of crime existed, and the interplay of evidentiary privileges all pose serious challenges to enforcement.

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

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Bob Poe
Agency: Department of Administration

Date: 2/3/99

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Senator Drue Pearce

Sponsor Statement

SB 5

“An Act relating to the crime of misprision of felony.”

A person commits the crime of “misprision” if he/she witnesses or has knowledge of a serious felony crime committed against another person, and fails to immediately report it to a peace officer or law enforcement agency. This is sometimes known as the “Good Samaritan Law.”

This bill was drafted in response to the Las Vegas incident: A 7 year old girl was raped and murdered in a casino restroom. A college student witnessed his friend committing the crime, but he walked away and did not report it. He was not charged with any crime because Nevada does not have a “Good Samaritan Law.”

Senate Bill 5 will make it a class A misdemeanor if the crime is not reported in a timely manner. The witness of crimes committed include murder in the first or second degree, kidnapping, sexual assault in the first degree, sexual abuse of a minor in the first degree, and arson in the first degree. Senate Bill 5 makes an exception to this rule if the witness believes that reporting the crime would put them in serious physical danger.

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.

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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Senator Pearce
Alaska State Legislature
State Capital
Juneau, Alaska 99801-1182

February 19, 1999

RECEIVED
FEB 22 1999

Ans'd.....

Dear Senator Pearce,

At a recent meeting of the APOA Board of Directors, we unanimously agreed to endorse SB 5.

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

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.....

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.

○