

CCDLA  
"Ready in the Defense of Liberty"  
Founded 1988

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March 16, 2009

Hon. Andrew J. McDonald, Senator  
Hon. Michael P. Lawlor, House Representative  
Chairmen, Judiciary Committee  
Room 2500, Legislative Office Building  
Hartford, CT 06106

Re: **Raised House Bill No. 6009, An Act Concerning the Failure of a Witness to Report a Serious Crime**

Dear Chairmen and Committee Members:

My name is Conrad Ost Seifert and I am an attorney practicing in Old Lyme. I am the President-Elect of the Connecticut Criminal Defense Lawyers Association, CCDLA, and I am submitting this testimony on behalf of the CCDLA, as well as on behalf of myself.

CCDLA is a statewide organization of approximately 350 lawyers in both the public and private sectors dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA works to improve the criminal justice system by insuring that the individual rights guaranteed by the Connecticut and United States Constitutions are applied fairly and equally, and that those rights are not diminished.

CCDLA supports Raised Bill 6576 *An Act Concerning Larceny*. I submitted written testimony on this and will be brief. This Act adjusts for inflation by doubling the financial thresholds for the six different larceny statutes we have. The statutory change is policy neutral.

\$10,000 in 1982 was worth \$10,000 but in 2008, according to the Consumer Price Index, it is worth \$22,300. The financial thresholds have not been adjusted for inflation in 27 years.

CCDLA *strongly* opposes Raised Bill 6009, *An Act Concerning the Failure of a Witness to Report a Serious Crime*.

This proposed act criminalizes the failure to report serious crimes by any person who merely witnesses these crimes but who is otherwise not involved. It makes all citizens who witness serious crimes mandatory reporters to law enforcement and this would be a radical and dramatic change and would give law enforcement a powerful investigative tool - compelling people to tell police what they witnessed or else face criminal arrest. If this Bill is passed, you will have enacted something that the State of Connecticut I don't think ever had, the old British common law crime of misprision of a felony. In 13<sup>th</sup> century England, it was a citizen's duty to raise the hue and cry by reporting felonies and the failure to report a crime was itself a crime. Connecticut and 48 states don't recognize this to be a crime. There is a federal misprision of felony statute, 18 U.S. Code §4:

“Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.”

Please note that the federal misprision of felony statute is rarely prosecuted but it does require that a defendant take affirmative steps to conceal someone else's felony, such as destroying evidence or lying to or misleading law enforcement.

If this Bill is passed, it imposes an affirmative duty on witnesses to, in a sense, become an

arm of law enforcement. If an arrested person has the constitutional right to remain silent, does it make sense to force an innocent witness to talk? Under this Act, mere silence and nonreporting is sufficient; the witness does not even have to actively conceal or mislead to be guilty as is the case with Federal statute. In that regard, it is worse than the federal misprision statute.

In 1967, even England, after centuries of common law history, repealed its misprision of felony crime in its 1967 Criminal Law Act. And decades ago, the drafters of the American Law Institute's Model Penal Code saw no need to have the offense of misprision of a felony.

Law enforcement does not need this passed in order to do its job and there is no compelling need for law enforcement to have this powerful tool. Although the proposed Bill refers to witnessing murder, assault, sexual assault and child abuse and does not refer to all felonies, passing this Bill would be passing a state misprision of felony statute and would be inconsistent with modern principles of personal freedom and the right to privacy. Thank you.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Conrad Ost Seifert". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Conrad Ost Seifert, Esquire  
President-Elect, Connecticut Criminal Defense Lawyers Association