

# Alaska State Legislature

## House of Representatives



**Representative Carl Gatto**  
**Representative Max Gruenberg**  
**Representative Bob Lynn**

HB 56

### INCLUDE ARSON IN CRIMES OF CONSPIRACY

#### Relevant Statutes

#### AS 11.31.120 Conspiracy

- (a) An offender commits the crime of conspiracy if, with the intent to promote or facilitate a serious felony offense, the offender agrees with one or more persons to engage in or cause the performance of that activity and the offender or one of the persons does an overt act in furtherance of the conspiracy.
- (b) If an offender commits the crime of conspiracy and knows that a person with whom the offender conspires to commit a serious felony offense has conspired or will conspire with another person or persons to commit the same serious felony offense, the offender is guilty of conspiring with that other person or persons to commit that crime whether or not the offender knows their identities.
- (c) In a prosecution under this section, it is a defense that the defendant was merely present at the time that two or more other persons agreed to engage in or cause the performance of a serious felony offense.
- (d) In a prosecution under this section, it is not a defense that a person with whom the defendant conspires could not be guilty of the crime that is the object of the conspiracy because of
- (1) lack of criminal responsibility or other legal incapacity or exemption;
  - (2) belonging to a class of persons who by definition are legally incapable in an individual capacity of committing the crime that is the object of the conspiracy;
  - (3) unawareness of the criminal nature of the conduct in question or of the criminal purpose of the defendant; or
  - (4) any other factor precluding the culpable mental state required for the commission of the crime.
- (e) If the offense that the conspiracy is intended to promote or facilitate is actually committed, a defendant may not be convicted of conspiring to commit that offense with another person for whose conduct the defendant is not legally accountable under [AS 11.16.120\(b\)](#).
- (f) In a prosecution under this section, it is an affirmative defense that the defendant, under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent, either (1) gave timely warning to law enforcement authorities; or (2) otherwise made proper effort that prevented the commission of the crime that was the object of the conspiracy. Renunciation by one conspirator does not affect the liability of another conspirator who does not join in the renunciation.
- (g) Notwithstanding [AS 22.10.030](#), venue in actions in which the crime of conspiracy is alleged to have been committed may not be based solely on the location of overt acts done in furtherance of the conspiracy.
- (h) In this section,
- (1) "overt act in furtherance of the conspiracy" means an act of such character that it manifests a purpose on the part of the actor that

the object of the conspiracy be completed;

(2) “serious felony offense” means an offense

(A) against the person under AS 11.41, punishable as an unclassified or class A felony;

(B) involving controlled substances under AS 11.71, punishable as an unclassified, class A, or class B felony;

(C) that is criminal mischief in the first degree under [AS 11.46.475](#); or

(D) that is terroristic threatening in the first degree under [AS 11.56.807](#).

(i) Conspiracy is

(1) an unclassified felony if the object of the conspiracy is murder in the first degree;

(2) a class A felony if the object of the conspiracy is a crime punishable as an unclassified felony other than murder in the first degree;

(3) a class B felony if the object of the conspiracy is a crime punishable as a class A felony;

(4) a class C felony if the object of the conspiracy is a crime punishable as a class B felony.

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### **AS 11.46.400 Arson in the First Degree**

(a) A person commits the crime of arson in the first degree if the person intentionally damages any property by starting a fire or causing an explosion and by that act recklessly places another person in danger of serious physical injury. For purposes of this section, “another person” includes but is not limited to fire and police service personnel or other public employees who respond to emergencies, regardless of rank, functions, or duties being performed.

(b) Arson in the first degree is a class A felony.

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### **AS 11.46.410 Arson in the Second Degree**

(a) A person commits the crime of arson in the second degree if the person knowingly damages a building by starting a fire or causing an explosion.

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

(1) that no person other than the defendant had a possessory, proprietary, or security interest in the building or that all persons having such an interest consented to the defendant's conduct; and

(2) that the sole intent of the defendant was to damage or destroy the building for a lawful purpose.

(c) Arson in the second degree is a class B felony.