

Introduced: 1/9/89  
Referred: Judiciary and  
Finance

6-0134A

1 IN THE HOUSE

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2

HOUSE BILL NO. 20

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the crime of conspiracy."

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

8 \* Section 1. AS 11.31 is amended by adding new sections to read:

9 Sec. 11.31.120. CONSPIRACY. (a) An offender commits the crime  
10 of conspiracy if, with the intent to promote or facilitate an offense  
11 relating to the delivery of a controlled substance under AS 11.71.-  
12 010 - 11.71.050, an offense relating to prostitution or promotion of  
13 prostitution under AS 11.66.100 - 11.66.130, or an offense having  
14 similar elements under a municipal ordinance,

15 (1) the offender agrees with one or more persons to engage  
16 in or cause the performance of that offense and communicates that  
17 agreement to the other person or persons; and

18 (2) the offender or one of the persons with whom the of-  
19 fender has agreed does an overt act in furtherance of the conspiracy.

20 (b) If an offender commits the crime of conspiracy and knows  
21 that a person with whom the offender conspires to commit a crime has  
22 conspired or will conspire with another person or persons to commit  
23 the same crime, the offender is guilty of conspiring with that other  
24 person or persons to commit that crime, whether or not the offender  
25 knows their identities.

26 (c) In a prosecution under this section, it is not a defense

27 (1) that the defendant belongs to a class of persons who by  
28 definition are legally incapable in an individual capacity of com-  
29 mitting a crime that is an object of the conspiracy; or

1           (2) that a person with whom the defendant conspires could  
2 not be guilty of a crime that is an object of the conspiracy because  
3 of

4                   (A) lack of criminal responsibility or other legal  
5 incapacity or exemption;

6                   (B) unawareness of the criminal nature of the conduct  
7 in question or of the criminal purpose of the defendant; or

8                   (C) any other factor precluding the culpable mental  
9 state required for the commission of the crime.

10           (d) In a prosecution under this section, it is a defense that,  
11 if the criminal objective were achieved, the defendant would not be  
12 legally accountable under AS 11.16.120(b) for the conduct of the  
13 person with whom the defendant conspired.

14           (e) In a prosecution under this section, it is an affirmative  
15 defense that, in order to obtain evidence of the commission of a  
16 conspiracy, a public law enforcement official or a person working in  
17 cooperation with the official agreed with the defendant to engage in  
18 or cause the performance of the offense, and the defendant and the law  
19 enforcement official or person working in cooperation with the offi-  
20 cial were the only persons who conspired to commit the offense.

21           (f) In a prosecution under this section, it is an affirmative  
22 defense that the defendant, under circumstances manifesting a volun-  
23 tary and complete renunciation of the defendant's criminal intent,  
24 gave timely warning to law enforcement authorities to prevent the  
25 commission of the crime that was the object of the conspiracy, and the  
26 authorities, reasonably acting upon the warning, would have had the  
27 opportunity to prevent the commission of the offense that was the  
28 object of the conspiracy. Renunciation by one conspirator does not  
29 affect the liability of another conspirator who does not join in the

1 renunciation.

2 (g) The liability of a conspirator for offenses committed in  
3 furtherance of the conspiracy, including a crime that is an object of  
4 the conspiracy, shall be determined under AS 11.16.

5 (h) Conspiracy is a

6 (1) class A felony if the object of the conspiracy is a  
7 crime punishable as an unclassified felony;

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

10 (3) class C felony if the object of the conspiracy is a  
11 crime punishable as a class B or class C felony;

12 (4) class B misdemeanor if the object of the conspiracy is  
13 a crime punishable as a class A or B misdemeanor or is a violation of  
14 a municipal ordinance.

15 Sec. 11.31.125. DURATIO. OF CONSPIRACY FOR PURPOSES OF LIMITA-  
16 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing  
17 limitations of actions, in a prosecution under AS 11.31.120, con-  
18 spiracy is a continuing course of conduct that terminates

19 (1) when all the crimes related to controlled substances,  
20 prostitution, or promotion of prostitution that are its object are  
21 completed;

22 (2) when the agreement is abandoned by the defendant and by  
23 the person with whom the defendant agreed; or

24 (3) as to an individual defendant, when the defendant  
25 abandons the agreement by advising the person with whom the defendant  
26 agreed of the defendant's abandonment or the defendant informs law  
27 enforcement authorities of the existence of the conspiracy and of the  
28 defendant's participation in it.

29 (b) For purposes of (a)(2) of this section, abandonment of an

1 agreement is rebuttably presumed if neither the defendant nor anyone  
2 with whom the defendant conspired does an overt act in furtherance of  
3 the conspiracy during the applicable period of limitations.

4 \* Sec. 2. AS 11.31.140 is amended to read:

5 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
6 defense to a prosecution under AS 11.31.100 - 11.31.120 [AS 11.31.100  
7 OR AS 11.31.110] that the crime that is the object of the attempt,  
8 conspiracy, or solicitation was actually committed pursuant to the  
9 attempt, conspiracy, or solicitation.

10 (b) A person may not be convicted of more than one crime defined  
11 by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] for conduct  
12 designed to commit or culminate in commission of the same crime.

13 (c) A person may not be convicted on the basis of the same  
14 course of conduct of both

15 (1) a crime defined by AS 11.31.100 - 11.31.120 [AS 11.31.-  
16 100 OR AS 11.31.110]; and

17 (2) a [THE] crime that is an [THE] object of the attempt,  
18 conspiracy, or solicitation.

19 (d) This section does not bar inclusion of multiple counts in a  
20 single indictment or information charging commission of a crime  
21 defined by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR AS 11.31.110] and  
22 commission of the crime that is the object of the attempt, conspiracy,  
23 or solicitation.

24 \* Sec. 3. AS 11.31.140 is amended by adding a new subsection to read:

25 (e) If a person conspires to commit more than one crime under  
26 AS 11.31.120, the person commits only one crime of conspiracy if the  
27 multiple crimes are the object of the same agreement.