

Offered: 3/8/89
Referred: Finance

6-0117E

Original sponsors: Faiks, Kelly,
Sturgulewski, and Rodey

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 16 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act creating the crime of conspiracy to commit
7 murder."

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

9 * Section 1. AS 11.41 is amended by adding new sections to read:

10 Sec. 11.41.122. CONSPIRACY TO COMMIT MURDER. (a) An offender
11 commits the crime of conspiracy to commit murder if, with the intent
12 to promote or facilitate a crime under AS 11.41.100(a)(1) or 11.41.-
13 110(a)(1), the offender agrees with one or more persons to engage in
14 or cause the performance of that offense and the offender or one of
15 the persons does an overt act in furtherance of the conspiracy.

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

22 (c) In a prosecution under this section, it is not a defense
23 that

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

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

29 (A) lack of criminal responsibility or other legal

1 incapacity or exemption;

2 (B) unawareness of the criminal nature of the conduct
3 in question or of the criminal purpose of the defendant; or

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

6 (d) The liability of a conspirator for offenses committed in
7 furtherance of the conspiracy, including a crime that is the object of
8 the conspiracy, shall be determined under AS 11.16.

9 (e) In a prosecution under this section it is an affirmative
10 defense that the defendant, under circumstances manifesting a volun-
11 tary and complete renunciation of the defendant's criminal intent,
12 gave timely warning to law enforcement authorities or otherwise made
13 proper effort to prevent the commission of the crime that was the
14 object of the conspiracy. Renunciation by one conspirator does not
15 affect the liability of another conspirator who does not join in the
16 renunciation.

17 (f) Conspiracy to commit murder is a class A felony.

18 Sec. 11.41.124. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-
19 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing
20 limitations of actions, in a prosecution under AS 11.41.122, con-
21 spiracy is a continuing course of conduct that terminates

22 (1) when the murder is completed;

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

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

1 (b) For purposes of (a)(2) of this section, abandonment of an
2 agreement is rebuttably presumed if neither the defendant nor anyone
3 with whom the defendant conspired does an overt act in furtherance of
4 the conspiracy during the applicable period of limitations.

5 * Sec. 2. AS 11.31.140 is amended to read:

6 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a
7 defense to a prosecution under AS 11.31.100, [OR AS] 11.31.110, or
8 AS 11.41.122 that the crime that is the object of the attempt, con-
9 spiracy to commit murder, or solicitation was actually committed
10 pursuant to the attempt, conspiracy to commit murder, or solicitation.

11 (b) A person may not be convicted of more than one crime defined
12 by AS 11.31.100, [OR AS] 11.31.110, or AS 11.41.122 for conduct de-
13 signed to commit or culminate in commission of the same crime.

14 (c) A person may not be convicted on the basis of the same
15 course of conduct of both (1) a crime defined by AS 11.31.100, [OR
16 AS] 11.31.110, or AS 11.41.122 [;] and (2) a crime that is an object
17 of the attempt, conspiracy to commit murder, or solicitation.

18 (d) This section does not bar inclusion of multiple counts in a
19 single indictment or information charging commission of a crime de-
20 fined by AS 11.31.100, [OR AS] 11.31.110, or AS 11.41.122 and commis-
21 sion of the crime that is the object of the attempt, conspiracy to
22 commit murder, or solicitation.

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

24 (e) If a person conspires to commit more than one crime under
25 AS 11.41.122, the person commits only one crime of conspiracy to
26 commit murder if the multiple crimes are the object of the same agree-
27 ment.