

**CS FOR HOUSE BILL NO. 554 (JUDICIARY)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY THE HOUSE JUDICIARY COMMITTEE

**Offered: 5/11/92
Referred: Finance**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the culpable mental state essential to criminal liability for aiding or
2 abetting another to commit an offense involving causation of a particular result; relating
3 to criminal liability for the conduct of an organization; and relating to the crime of
4 conspiracy to commit misconduct involving a controlled substance in the first, second, or
5 third degree, murder, arson, kidnapping, or an environmental offense under AS 46.03.790,
6 and venue in actions in which the crime of conspiracy is charged."

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

8 * Section 1. AS 11.16.110 is amended by adding a new subsection to read:

9 (b) When causing a particular result is an element of an offense, a person who aids or
10 abets another in planning or committing the offense is legally accountable for the conduct of the
11 other if the person acts with the culpable mental state with respect to the result that is sufficient
12 for the commission of the offense.

13 * Sec. 2. AS 11.16 is amended by adding a new section to read:

1 **Sec. 11.16.140. CRIMINAL LIABILITY OF AN INDIVIDUAL FOR ORGANIZATION**
2 **CONDUCT.** (a) A person is criminally liable for conduct that the person performs or causes
3 to be performed in the name of, or on behalf of, an organization to the same extent as if that
4 conduct were performed in the person's own name or behalf.

5 (b) When a duty to act is imposed by law upon an organization, an agent of the
6 organization who has primary responsibility for the discharge of the duty is legally accountable
7 for an omission to perform the required act to the same extent as if the duty were imposed by
8 law directly upon the agent.

9 (c) When a person is liable for an offense under this section, the person is subject to any
10 sentence authorized by law, including imprisonment.

11 * **Sec. 3.** AS 11.31 is amended by adding new sections to read:

12 **Sec. 11.31.120. CONSPIRACY.** (a) An offender commits the crime of conspiracy if,
13 with the intent to promote or facilitate murder, arson, kidnapping, an offense relating to the
14 delivery of a controlled substance under AS 11.71.010 - 11.71.030, or an environmental offense
15 under AS 46.03.790, (1) the offender agrees with one or more persons to engage in or cause the
16 performance of the offense and communicates the agreement to the other person or persons; and
17 (2) the offender or one of the persons with whom the offender has agreed does an overt act in
18 furtherance of the conspiracy. In this section, an "overt act in furtherance of the conspiracy"
19 means an act of such character that it manifests a purpose on the part of the actor that the object
20 of the conspiracy be completed.

21 (b) In a prosecution under this section, it is not a defense

22 (1) that the defendant belongs to a class of persons who by definition are legally
23 incapable in an individual capacity of committing a crime that is an object of the conspiracy; or

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

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

27 (B) unawareness of the criminal nature of the conduct in question or of
28 the criminal purpose of the defendant; or

29 (C) another factor precluding the culpable mental state required for the
30 commission of the crime.

31 (c) In a prosecution under this section, it is a defense that, if the criminal objective were

1 achieved, the defendant would not be legally accountable under AS 11.16.120(b) for the conduct
2 of the person with whom the defendant conspired.

3 (d) In a prosecution under this section, it is an affirmative defense that, in order to obtain
4 evidence of the commission of a conspiracy, a public law enforcement official or a person
5 working in cooperation with the official agreed with the defendant to engage in or cause the
6 performance of the offense, and the defendant and the law enforcement official or person working
7 in cooperation with the official were the only persons who conspired to commit the offense.

8 (e) In a prosecution under this section, it is an affirmative defense that the defendant,
9 under circumstances manifesting a voluntary and complete renunciation of the defendant's
10 criminal intent, gave timely warning to law enforcement authorities to prevent the commission
11 of the crime that was the object of the conspiracy and the authorities, acting reasonably upon the
12 warning, would have had the opportunity to prevent the commission of the offense that was the
13 object of the conspiracy. Renunciation by one conspirator does not affect the liability of another
14 conspirator who does not join in the renunciation.

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

17 (g) Conspiracy is

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

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

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

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

26 (5) a class A misdemeanor if the object of the conspiracy is a crime punishable
27 as a class C felony;

28 (6) a class B misdemeanor if the object of the conspiracy is a crime punishable
29 as a class A or class B misdemeanor.

30 (h) Notwithstanding AS 22.10.030, venue in actions in which the crime of conspiracy is
31 alleged to have been committed may not be based solely on the location of overt acts done in

1 furtherance of the conspiracy.

2 Sec. 11.31.125. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITATIONS
3 OF ACTIONS. (a) For purposes of applying AS 12.10 governing limitations of actions, in a
4 prosecution under AS 11.31.120, conspiracy is a continuing course of conduct that terminates

5 (1) when all of the crimes related to murder, arson, kidnapping, controlled
6 substances, or environmental offenses under AS 46.03.790 that are its objects are completed;

7 (2) when the agreement is abandoned by the defendant and by all persons with
8 whom the defendant agreed; or

9 (3) as to an individual defendant, when

10 (A) the defendant abandons the agreement by advising the persons with
11 whom the defendant agreed of the defendant's abandonment; or

12 (B) the defendant informs law enforcement authorities of the existence of
13 the conspiracy and of the defendant's participation in it.

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

17 * Sec. 4. AS 11.31.140 is amended to read:

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

22 (b) A person may not be convicted of more than one crime defined by AS 11.31.100 -
23 11.31.120 [AS 11.31.100 OR AS 11.31.110] for conduct designed to commit or culminate in
24 commission of the same crime.

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

26 (1) a crime defined by AS 11.31.100 - 11.31.120 [AS 11.31.100 OR 11.31.110];

27 and

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

30 (d) This section does not bar inclusion of multiple counts in a single indictment or
31 information charging commission of a crime defined by AS 11.31.100 - 11.31.120 [AS 11.31.100

1 OR 11.31.110] and commission of the crime that is the object of the attempt, conspiracy, or
2 solicitation.

3 * Sec. 5. AS 11.31.140 is amended by adding a new subsection to read:

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

7 * Sec. 6. AS 12.55.125(b) is amended to read:

8 (b) A defendant convicted of murder in the second degree, conspiracy to commit
9 murder in the first degree, attempted murder in the first degree, kidnapping, or misconduct
10 involving a controlled substance in the first degree shall be sentenced to a definite term of
11 imprisonment of at least five years but not more than 99 years.