

**HOUSE CS FOR CS FOR SENATE BILL NO. 343 (JUDICIARY)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 5/10/92**

**Referred: Finance**

**Sponsor(s): SENATORS HALFORD, Collins, Pearce**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the crime of conspiracy."

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

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

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

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

14           (1) that the defendant belongs to a class of persons who by definition are legally

1 incapable in an individual capacity of committing a crime that is an object of the conspiracy; or

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

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

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

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

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

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

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

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

26 (g) Conspiracy is

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

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

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

1 A felony;

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

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

6 (6) a class B misdemeanor if the object of the conspiracy is a crime punishable  
7 as a class A or class B misdemeanor;

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

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

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

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

18 (3) as to an individual defendant, when

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

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

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

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

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

31 (b) A person may not be convicted of more than one crime defined by AS 11.31.100 -

1 **11.31.120** [AS 11.31.100 OR AS 11.31.110] for conduct designed to commit or culminate in  
2 commission of the same crime.

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

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

5 and

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

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

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

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

16 \* **Sec. 4.** AS 12.55.125(b) is amended to read:

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