

HOUSE BILL NO. 43

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES PORTER, Phillips

Introduced: 1/11/93

Referred: State Affairs, Judiciary, Finance

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 a new section to read:

4 Sec. 11.31.120. **CONSPIRACY.** (a) An offender commits the crime of
5 conspiracy if, with the intent to promote or facilitate a serious felony offense, the
6 offender agrees with one or more persons to engage in or cause the performance of
7 that activity and the offender or one of the persons does an overt act in furtherance of
8 the conspiracy.

9 (b) If an offender commits the crime of conspiracy and knows that a person
10 with whom the offender conspires to commit a serious felony offense has conspired
11 or will conspire with another person or persons to commit the same serious felony
12 offense, the offender is guilty of conspiring with that other person or persons to
13 commit that crime whether or not the offender knows their identities.

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

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

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

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

8 (B) unawareness of the criminal nature of the conduct in
9 question or of the criminal purpose of the defendant; or

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

12 (d) If the offense that the conspiracy is intended to promote or facilitate is
13 actually committed, a defendant may not be convicted of conspiring to commit that
14 offense with another person for whose conduct the defendant is not legally accountable
15 under AS 11.16.120(b).

16 (e) In a prosecution under this section, it is an affirmative defense that the
17 defendant, under circumstances manifesting a voluntary and complete renunciation of
18 the defendant's criminal intent, either (1) gave timely warning to law enforcement
19 authorities; or (2) otherwise made proper effort that prevented the commission of the
20 crime that was the object of the conspiracy. Renunciation by one conspirator does not
21 affect the liability of another conspirator who does not join in the renunciation.

22 (f) Conspiracy is

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

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

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

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

31 (g) In this section, "serious felony offense" means an offense

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

3 (2) involving controlled substances under AS 11.71, punishable as an
4 unclassified, class A, or class B felony.

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

6 (a) It is not a defense to a prosecution under AS 11.31.100 - 11.31.120
7 [AS 11.31.100 OR AS 11.31.110] that the crime the defendant attempted to commit,
8 solicited to commit, or conspired to commit [THAT IS THE OBJECT OF THE
9 ATTEMPT OR SOLICITATION] was actually committed pursuant to the attempt,
10 solicitation, or conspiracy [OR SOLICITATION].

11 * Sec. 3. AS 11.31.140(b) is amended to read:

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

15 * Sec. 4. AS 11.31.140(d) is amended to read:

16 (d) This section does not bar inclusion of multiple counts in a single
17 indictment or information charging commission of a crime defined by AS 11.31.100 -
18 11.31.120 [AS 11.31.100 OR 11.31.110] and commission of the crime that is the
19 object of the attempt, conspiracy, or solicitation.

20 * Sec. 5. AS 12.55.125(b) is amended to read:

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