

**HOUSE CS FOR CS FOR SENATE BILL NO. 19(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION**

BY THE HOUSE FINANCE COMMITTEE

**Offered: 1/26/94
Referred: Rules**

Sponsor(s): SENATORS HALFORD, Phillips, Donkey, Kerttula, Taylor, Pearce, Kelly, Frank, Miller, Sharp, Rieger

REPRESENTATIVES Porter, Phillips, Toohy, Green, Mulder

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**
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. In this section, "overt act in furtherance of the conspiracy" means an**
9 **act of such character that it manifests a purpose on the part of the actor that the object**
10 **of the conspiracy be completed.**

11 **(b) If an offender commits the crime of conspiracy and knows that a person**
12 **with whom the offender conspires to commit a serious felony offense has conspired**
13 **or will conspire with another person or persons to commit the same serious felony**
14 **offense, the offender is guilty of conspiring with that other person or persons to**

1 commit that crime whether or not the offender knows their identities.

2 (c) In a prosecution under this section, it is a defense that the defendant was
3 merely present at the time that two or more other persons agreed to engage in or cause
4 the performance of a serious felony offense.

5 (d) In a prosecution under this section, it is not a defense that a person with
6 whom the defendant conspires could not be guilty of the crime that is the object of the
7 conspiracy because of

8 (1) lack of criminal responsibility or other legal incapacity or
9 exemption;

10 (2) belonging to a class of persons who by definition are legally
11 incapable in an individual capacity of committing the crime that is the object of the
12 conspiracy;

13 (3) unawareness of the criminal nature of the conduct in question or of
14 the criminal purpose of the defendant; or

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

17 (e) If the offense that the conspiracy is intended to promote or facilitate is
18 actually committed, a defendant may not be convicted of conspiring to commit that
19 offense with another person for whose conduct the defendant is not legally accountable
20 under AS 11.16.120(b).

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

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

30 (h) Conspiracy is

31 (1) an unclassified felony if the object of the conspiracy is murder in

- 1 the first degree;
- 2 (2) a class A felony if the object of the conspiracy is a crime
- 3 punishable as an unclassified felony other than murder in the first degree;
- 4 (3) a class B felony if the object of the conspiracy is a crime
- 5 punishable as a class A felony;
- 6 (4) a class C felony if the object of the conspiracy is a crime
- 7 punishable as a class B felony.

- 8 (i) In this section, "serious felony offense" means an offense
- 9 (1) against the person under AS 11.41, punishable as an unclassified
- 10 or class A felony; or
- 11 (2) involving controlled substances under AS 11.71, punishable as an
- 12 unclassified, class A, or class B felony.

13 Sec. 11.31.125. DURATION OF CONSPIRACY FOR PURPOSES OF

14 LIMITATIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing

15 limitations of actions, in a prosecution under AS 11.31.120, the statute of limitations

16 begins to run

- 17 (1) when all the crimes that are serious felony offenses that are its
- 18 objects are completed;
- 19 (2) if all the crimes that are its objects are not completed, when the last
- 20 overt act in furtherance of the conspiracy is done by the defendant or any of the other
- 21 coconspirators; or
- 22 (3) when the defendant informs law enforcement authorities of the
- 23 existence of the conspiracy and of the defendant's participation in it.

24 (b) In this section, "overt act in furtherance of the conspiracy" has the meaning

25 given in AS 11.31.120.

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

27 (a) It is not a defense to a prosecution under ~~AS 11.31.100 - 11.31.120~~

28 [AS 11.31.100 OR AS 11.31.110] that the crime the defendant attempted to commit,

29 solicited to commit, or conspired to commit [THAT IS THE OBJECT OF THE

30 ATTEMPT OR SOLICITATION] was actually committed pursuant to the attempt,

31 solicitation, or conspiracy [OR SOLICITATION].

1 • Sec. 3. AS 11.31.140(b) is amended to read:

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

5 • Sec. 4. AS 11.31.140(d) is amended to read:

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

10 • Sec. 5. AS 12.55.125(b) is amended to read:

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