

S B

16

**STATE OF ALASKA 1989 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** Bill Version: CS SB 16 (JUD) (a)  
 Publish Date: 3/10/89

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Revision Date: 3/9/89 Agency Affected: Alaska Court System  
 Title: An act defining the crime of ERU: Trial Courts  
       conspiracy ... controlled substance  
 Sponsor: Faika, Kelly, Sturgulewski, ... Components:  
 Requestor:

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

**CAPITAL:** . . . . .

**REVENUE:** . . . . .

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

POSITIONS:		(Thousands of Dollars)					
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .	

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8228  
 Division: Alaska Court System Date: 03/10/89

Approved by: *Arthur H. Snowden, Jr.* Arthur H. Snowden, Jr., Administrative Director Date: 03/10/89  
 Agency: Alaska Court System

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management & Budget
  - Impacted Agency(ies)
  - Senate Secretary

## FISCAL NOTE

**REQUEST:**

Revision Date: March 6, 1989  
 Title: "An Act creating the crime of conspiracy to commit murder."  
 Sponsor: Senate Judiciary  
 Requestor: Senate Judiciary

Agency Affected: Department of Law  
 BRU: Prosecution  
 Components: All

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

Please see the attached analysis.

Prepared by: Richard I. Pernes, Director  
 Division: Administrative Services  
 Approved by Commissioner: Douglas B. Bailly, Attorney Gen.  
 Agency: Department of Law

Phone: 465-3672  
 Date: March 6, 1989  
 Date: March 6, 1989

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 16 (Jud)

The committee substitute for SB 16 has been totally revamped to establish a new crime of conspiracy to commit murder. Formerly, the bill would have established the crime of conspiracy to violate state laws regarding drugs, which has now been dropped from the bill.

The number of murders and attempted murders average about 40, each year. The number of murders involving two or more perpetrators; however, can probably be counted on one hand. Consequently, the number of new prosecutions, which occur as result of the enactment of this bill, will be quite small. Conversely, the potential for drug conspiracy violations is nearly limitless, and it would be expensive to pursue conspiracy prosecutions against drug offenders not being prosecuted under existing law. Because the committee substitute no longer includes drug conspiracy, the costs shown in the department's original fiscal note of January 26, 1989, are no longer appropriate. The new version of the bill should not have a fiscal impact on the Department of Law.

STATE OF ALASKA  
THE LEGISLATURE

FOUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

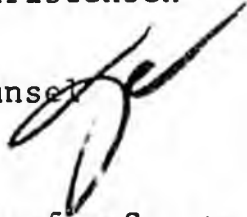
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 15, 1989

SUBJECT: Draft CSSB 16 (Judiciary), defining the crime of conspiracy to commit murder: sectional analysis

TO: Senator Jan Faiks, Chair  
Senate Judiciary Committee  
Attn: Chris Christensen

FROM: Jack Chenoweth  
Legislative Counsel 

This draft Committee Substitute for Senate Bill 16 defines the crime of conspiracy with reference to commission of murder in which intent is an element of the definition of the crime.

\* \* \*

Bill section 1 adds two new sections, AS 11.41.122 and 11.41.124, that together set out the principal substantive provisions of the crime of conspiracy to commit a murder. In that bill section --

Proposed AS 11.41.122(a) defines the crime. It follows the Model Penal Code suggestions by basing the definition on a finding that the offender has agreed with at least one other person to engage in or perform the offense. The section also incorporates a related requirement that one of the parties shall have performed an overt act in furtherance of the offense.

Proposed AS 11.41.122(b) speaks to the dimension of the crime of conspiracy as it relates to the participating parties. This subsection broadens the conspiracy net to include persons with whom the offender knows that his or her co-conspirator conspired, although the offender may not know the exact identities of these persons.

Following the Model Penal Code's suggestion, proposed AS 11.41.122(c) identifies certain defenses that a person

charged as a conspirator may not claim. They include provisions that the defendant may not claim as a defense the defender's individual incapacity or immunity from criminal responsibility for conduct that constitutes an offense, and instances in which the defendant asserts as a defense a co-conspirator's incapacity or immunity from criminal responsibility for any of the reasons specified in the second paragraph. Section 122(c)'s provisions are included in recognition of the legal basis for the definition of the conspiracy, the evidence of the defendant's agreement and purpose to commit a crime, notwithstanding a party's legal incapacity or immunity.

A chapter of the state's criminal code, AS 1 .16, sets out provisions prescribing legal accountability--individually, for the conduct of another, and for an organization--and enumerates exemptions by way of affirmative defense. Proposed AS 11.41.122(d) provides that the requirements and exceptions of AS 11.16 are made specifically applicable to ascertain and define the criminal liability of the conspirator as to the offenses that are committed in furtherance of the conspiracy.

Typically, conspiracy statutes generally define a duration to the conspiracy and specify conditions or circumstances under which an offender may withdraw from the conspiracy. Following, generally, the Model Penal Code example, proposed AS 11.41.122(e) serves that purpose. The requirement in this statute is that the withdrawal shall have been timely communicated to a law enforcement official or that the defendant otherwise made proper effort to prevent the commission of the crime.

Proposed AS 11.41.122(f) classifies the crime of conspiracy to commit murder for purposes of imposition of sentence.

Another element bearing upon conspiracy prosecutions is, of course, the statute of limitations applicable to initiation of prosecution under the conspiracy statute. Because conspiracy is defined as a "continuing course of conduct" subject to termination as specified by law, it is often critical to know, and difficult to ascertain with certainty, the time at which a conspiracy ceases. The language provided in proposed AS 11.41.124, based on the Model Penal Code example, is an attempt to specify with a degree of certainty the durational element of the conspiracy.

Senator Jan Faiks  
Page 3  
February 15, 1989

In context, the events or circumstances specified in the section seem straightforward.

\* \* \*

Bill sections 2 and 3 amend and add to provisions of current law that limit multiple convictions for the inchoate crime and for the related, substantive crime.

Given the generally consistent treatment afforded to conspiracies, attempts, and solicitations, the amendments made in bill section 2 serve the purpose of applying the same limitations to the crime of conspiracy to commit murder as are currently applicable to the crimes of attempt and solicitation. These provisions address in turn: denial of a defense in a prosecution for the inchoate crime for completion of the objective crime [subsection (a)]; a limitation on multiple convictions "for conduct" that was "designed to commit or culminate in commission of the same crime" [subsection (b)]; a limitation on conviction predicated on the same course of conduct under the inchoate criminal provision and for successful completion of the object crime [subsection (c)]; and a provision specifically permitting prosecution of multiple counts on a single information or indictment [subsection (d)].

The material in bill section 3 stands for the proposition that various offenses that are the product of a continuous relationship between the parties are part of a single conspiracy and should be so treated. This section is predicated on the assumption that multiple criminal objectives do not necessarily presume multiple conspiracies. The provision merely codifies existing case law. See Braverman v. United States, 317 U.S. 49, 87 L.Ed. 23, 63 S.Ct. 99 (1942).

JC:kb  
WKK2/009

Enclosure

# Alaska State Legislature



## Senate Judiciary Committee

May 3, 1989

### MEMORANDUM

TO: Representative Max Gruenberg, Co-Chairman  
Representative Peter Goll, Co-Chairman

FROM: Senator Jan Faiks, Chairman  
Senate Judiciary Committee

SUBJECT: CSSB 16(Jud) "An Act creating the crime of  
conspiracy to commit murder."

CSSB 16 (Jud) has been referred to the House Judiciary Committee for consideration. This bill creates the crime of conspiracy to commit murder.

At the present time, Alaska is the only state which has no conspiracy statute. Until ten years ago, Alaska had two conspiracy laws on the books: conspiracy to kidnap and conspiracy against rights. Both laws were repealed in 1978 when the criminal code was revised. During the revision process, there was a significant effort made to enact conspiracy laws for five crimes: murder, arson in the first degree, kidnapping, extortion and scheming to defraud in the first degree. For various reasons, the revised criminal code did not include any of these proposals.

CSSB 16 (Jud) is modelled on the American Law Institute's Model Penal Code conspiracy provisions. The Model Penal Code is a source of much of our criminal code. Of the 49 states with conspiracy laws, approximately 20 have laws based upon this Model Penal Code version.

In its simplest terms, conspiracy is a combination of persons for the purpose of committing a crime. Since no criminal act

has necessarily been completed, conspiracy permits punishment on the basis not of what a person did, but upon what he would have done had he not been stopped. Because they deal with group activity, conspiracy statutes are generally considered important tools for law enforcement in the fight against organized crime.

While Alaska might benefit from a general conspiracy statute, the definition of the crime of conspiracy contained in CSSB 16 (Jud) is limited to conspiracies to commit first or second degree murder. The bill requires a finding that the offender agreed with at least one other person to engage in or to perform the offense. This agreement must be communicated to the other person or persons, and at least one of the parties must have performed an overt act in furtherance of the offense. You will find attached a memorandum from the drafter of CSSB 16 (Jud), discussing its provisions in detail.

Prosecutors of the Criminal Division of the Department of Law have advised the Judiciary Committee that they would find a murder conspiracy statute very useful, particularly in light of several major murder trials conducted in the past few years involving contract murders. Cases in which one person attempts to hire others are easier to prosecute with a murder conspiracy statute, as are cases involving gangs that plan murders. The Attorney General has provided a zero fiscal note.

CSSB 16 (Jud) will provide the state with an important new tool in its efforts to punish those who combine efforts to murder. It is a strictly drafted piece of legislation, and as such, it provides excellent protection for constitutionally protected rights. I urge your support for this bill.

**STATE OF ALASKA 1989 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** Bill Version: CS SB 16 (JUD) (a)  
 Publish Date: 5/10/89

Revision Date: 3/9/89 Agency Affected: Alaska Court System  
 Title: An act defining the crime of BRU: Trial Courts  
 conspiracy ... controlled substance  
 Sponsor: Faiks, Kelly, Sturgulewski, ... Components:  
 Requestor:

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**CAPITAL:** . . . . .

**REVENUE:** . . . . .

**FUNDING:** (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Scholar	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8228  
 Division: Alaska Court System Date: 03/10/89

Approved by: *Stephanie Cole, for* Arthur H. Snowden, II, Administrative Director Date: 03/10/89  
 Agency: Alaska Court System

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management & Budget
  - Impacted Agency(ies)
  - Senate Secretary

## FISCAL NOTE

**REQUEST:**

Revision Date: March 6, 1989  
 Title: "An Act creating the crime of  
 conspiracy to commit murder."  
 Sponsor: Senate Judiciary  
 Requestor: Senate Judiciary

Agency Affected: Department of Law  
 BRU: Prosecution  
 Components: All

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 65-3672  
 Division: Administrative Services Date: March 6, 1989  
 Approved by Commissioner: Richard A. Pegues / doc /  
Douglas B. Bailv, Attorney Gen. Date: March 6, 1989  
 Agency: Department of Law

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 16 (Jud)

The committee substitute for SB 16 has been totally revamped to establish a new crime of conspiracy to commit murder. Formerly, the bill would have established the crime of conspiracy to violate state laws regarding drugs, which has now been dropped from the bill.

The number of murders and attempted murders average about 40, each year. The number of murders involving two or more perpetrators; however, can probably be counted on one hand. Consequently, the number of new prosecutions, which occur as result of the enactment of this bill, will be quite small. Conversely, the potential for drug conspiracy violations is nearly limitless, and it would be expensive to pursue conspiracy prosecutions against drug offenders not being prosecuted under existing law. Because the committee substitute no longer includes drug conspiracy, the costs shown in the department's original fiscal note of January 26, 1989, are no longer appropriate. The new version of the bill should not have a fiscal impact on the Department of Law.

**STATE OF ALASKA  
1990 LEGISLATIVE SESSION**

Bill Version: CS SB 18  
Publish Date: 3/8/89

**FISCAL NOTE**

**REQUEST:**

Revision Date 2/8/90 Agency Affected: Alaska Court System  
Title: An Act creating the crime of conspiracy to commit murder BRU: Trial Courts  
Sponsor: Falks, Kelly, Sturgulewski & Roday Components:  
Requestor: House Judiciary

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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**FUNDING: (Thousands of Dollars)**

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

Full-time						
Part-time						
Temporary						

**ANALYSIS: (Attach a separate page if necessary)**

No fiscal impact.

Prepared by: Jan Strandberg  
Jan Strandberg, General Counsel  
Division: Alaska Court System  
Approved by: Arthur H. Snowden II  
Arthur H. Snowden II, Administrative Director  
Agency: Alaska Court System

Phone: 284-8228  
Date: 02/06/90  
Date: 02/06/90

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management & Budget  
Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
Title: Conspiracy to commit murder BRU: Alaska State Troopers  
Sponsor: Senator Falks. et al. Component: \_\_\_\_\_  
Requestor: House Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Although there may be some increase in law enforcement investigations and prosecutions as a result of this bill, it is anticipated that this impact could be absorbed within the existing workforce.

Prepared by: Gavle A. Horetski, Deputy Commissioner Phone: 465-4322  
Division: Office of the Commissioner Date: 2/6/90

Approved by Commissioner: Arthur English Date: 2-6-90  
Agency: Department of Public Safety Page 1 of 1

*Handwritten:* 2/6/90

1 IN THE SENATE

BY FAIKS, KELLY, STURGULEWSKI  
AND RODEY

2

SENATE BILL NO. 16

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act defining the crime of conspiracy as it re-  
7 lates to the delivery of a controlled substance."

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

9 \* Section 1. AS 11.71 is amended by adding new sections to article 1 to  
10 read:

11 Sec. 11.71.090. CONSPIRACY TO DELIVER A CONTROLLED SUBSTANCE.

12 (a) An offender commits the crime of conspiracy to deliver a con-  
13 trolled substance if, with the intent to promote or facilitate an  
14 offense relating to the delivery of a controlled substance under  
15 AS 11.71.010 - 11.71.050, the offender agrees with one or more persons  
16 to engage in or cause the performance of that offense and the offender  
17 or one of the persons does an overt act in furtherance of the conspir-  
18 acy.

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

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

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

29 (2) that a person with whom the defendant conspires could

1 crime punishable as a class B or class C felony;

2 (4) class B misdemeanor if the object of the conspiracy is  
3 a crime punishable as a class A misdemeanor.

4 Sec. 11.71.095. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-  
5 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing  
6 limitations of actions, in a prosecution under AS 11.71.090, con-  
7 spiracy is a continuing course of conduct that terminates

8 (1) when all the crimes related to the delivery of control-  
9 led substance are completed;

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

12 (3) as to an individual defendant, when the defendant  
13 abandons the agreement by advising the person with whom the defendant  
14 agreed of the defendant's abandonment or the defendant informs law  
15 enforcement authorities of the existence of the conspiracy and of the  
16 defendant's participation in it.

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

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

22 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
23 defense to a prosecution under AS 11.31.100, [OR AS] 11.31.110, or  
24 AS 11.71.090 that the crime that is the object of the attempt, con-  
25 spiracy to deliver a controlled substance, or solicitation was actual-  
26 ly committed pursuant to the attempt, conspiracy to deliver a con-  
27 trolled substance, or solicitation.

28 (b) A person may not be convicted of more than one crime defined  
29 by AS 11.31.100, [OR AS] 11.31.110, or AS 11.71.090 for conduct

1 IN THE SENATE

BY FAIKS, KELLY, STURGULEWSKI  
AND RODEY

2

SENATE BILL NO. 16

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act defining the crime of conspiracy as it re-  
7 lates to the delivery of a controlled substance."

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

9 \* Section 1. AS 11.71 is amended by adding new sections to article 1 to  
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12 (a) An offender commits the crime of conspiracy to deliver a con-  
13 trolled substance if, with the intent to promote or facilitate an  
14 offense relating to the delivery of a controlled substance under  
15 AS 11.71.010 - 11.71.050, the offender agrees with one or more persons  
16 to engage in or cause the performance of that offense and the offender  
17 or one of the persons does an overt act in furtherance of the conspir-  
18 acy.

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

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

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

29 (2) that a person with whom the defendant conspires could

1 not be guilty of a crime that is an object of the conspiracy because  
2 of

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

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

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

9 (d) The liability of a conspirator for offenses committed in  
10 furtherance of the conspiracy, including a crime that is an object of  
11 the conspiracy, shall be determined under AS 11.16. However, in a  
12 prosecution under this section, it is a defense that, if the criminal  
13 objective were achieved, the defendant would not be legally account-  
14 able under AS 11.16.120(b) for the conduct of the person with whom the  
15 defendant conspired.

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

24 (f) Conspiracy is a

25 (1) class A felony if the object of the conspiracy is a  
26 crime punishable as an unclassified felony;

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

29 (3) class C felony if the object of the conspiracy is a

1 crime punishable as a class B or class C felony;

2 (4) class B misdemeanor if the object of the conspiracy is  
3 a crime punishable as a class A misdemeanor.

4 Sec. 11.71.095. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-  
5 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing  
6 limitations of actions, in a prosecution under AS 11.71.090, con-  
7 spiracy is a continuing course of conduct that terminates

8 (1) when all the crimes related to the delivery of control-  
9 led substance are completed;

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

12 (3) as to an individual defendant, when the defendant  
13 abandons the agreement by advising the person with whom the defendant  
14 agreed of the defendant's abandonment or the defendant informs law  
15 enforcement authorities of the existence of the conspiracy and of the  
16 defendant's participation in it.

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

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

22 Sec. 11.31.140. MULTIPLE CONVICTIONS BARRED. (a) It is not a  
23 defense to a prosecution under AS 11.31.100, [OR AS] 11.31.110, or  
24 AS 11.71.090 that the crime that is the object of the attempt, con-  
25 spiracy to deliver a controlled substance, or solicitation was actual-  
26 ly committed pursuant to the attempt, conspiracy to deliver a con-  
27 trolled substance, or solicitation.

28 (b) A person may not be convicted of more than one crime defined  
29 by AS 11.31.100, [OR AS] 11.31.110, or AS 11.71.090 for conduct

1 designed to commit or culminate in commission of the same crime.

2 (c) A person may not be convicted on the basis of the same  
3 course of conduct of both (1) a crime defined by AS 11.31.100, [OR  
4 AS] 11.31.110, or AS 11.71.090 [;] and (2) a crime that is an object  
5 of the attempt, conspiracy to deliver a controlled substance, or  
6 solicitation.

7 (d) This section does not bar inclusion of multiple counts in a  
8 single indictment or information charging commission of a crime de-  
9 fined by AS 11.31.100, [OR AS] 11.31.110, or AS 11.71.090 and commis-  
10 sion of the crime that is the object of the attempt, conspiracy to  
11 deliver a controlled substance, or 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  
14 AS 11.71.090, the person commits only one crime of conspiracy to  
15 deliver a controlled substance if the multiple crimes are the object  
16 of the same agreement.

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.