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SENATE COMMITTEE REPORT

FURTHER

2/23/89

DATE TURNED INTO OFFICE _____

Mr. President:

FINANCE _____ Committee considered SB 20 _____

crime of conspiracy

and recommended

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

*No action taken by JFC
Bill died in committee*

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Chairman signature and recommendation

Committee Backup attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2-2-89
IN ACCORDANCE WITH UNIFORM RULE 23

SB 20
FIN

FURTHER

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

1/9/89

DATE TURNED INTO OFFICE _____

Mr. President:

_____ JUDICIARY _____ Committee considered SB 20
crime of conspiracy

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title

Majority
 do pass

- do not pass
- no recommendation
- individual recommendations
- further referral to _____

[Handwritten signature]

FISCAL NOTE(S) attached zero fiscal impact
 appropriation no FN attached Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rich Halford
Levi Keane
Ed Bradley

[Handwritten signature]
Chairman signature and recommendation

Committee backup attached

1 IN THE SENATE

BY RODEY, STURGULEWSKI,
KERTTULA AND PEARCE

2 SENATE BILL NO. 20

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the crime of conspiracy."

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

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

9 Sec. 11.31.120. CONSPIRACY. (a) An offender commits the crime
10 of conspiracy if, with the intent to promote or facilitate an offense
11 relating to the delivery of a controlled substance under AS 11.71.-
12 010 - 11.71.050, an offense relating to prostitution or promotion of
13 prostitution under AS 11.66.100 - 11.66.130, or an offense having
14 similar elements under a municipal ordinance,

15 (1) the offender agrees with one or more persons to engage
16 in or cause the performance of that offense and communicates that
17 agreement to the other person or persons; and

18 (2) the offender or one of the persons with whom the of-
19 fender has agreed does an overt act in furtherance of the conspiracy.

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

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

27 (1) that the defendant belongs to a class of persons who by
28 definition are legally incapable in an individual capacity of com-
29 mitting a crime that is an object of the conspiracy; or
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1 (2) that a person with whom the defendant conspires could
2 not be guilty of a crime that is an object of the conspiracy because
3 of

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

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

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

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

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

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

1 renunciation.

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

5 (h) Conspiracy is a

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

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

10 (3) class C felony if the object of the conspiracy is a
11 crime punishable as a class B or class C felony;

12 (4) class B misdemeanor if the object of the conspiracy is
13 a crime punishable as a class A or B misdemeanor or is a violation of
14 a municipal ordinance.

15 Sec. 11.31.125. DURATION OF CONSPIRACY FOR PURPOSES OF LIMITA-
16 TIONS OF ACTIONS. (a) For purposes of applying AS 12.10 governing
17 limitations of actions, in a prosecution under AS 11.31.120, con-
18 spiracy is a continuing course of conduct that terminates

19 (1) when all the crimes related to controlled substances,
20 prostitution, or promotion of prostitution that are its object are
21 completed;

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

24 (3) as to an individual defendant, when the defendant
25 abandons the agreement by advising the person with whom the defendant
26 agreed of the defendant's abandonment or the defendant informs law
27 enforcement authorities of the existence of the conspiracy and of the
28 defendant's participation in it.

29 (b) For purposes of (a)(2) of this section, abandonment of an

1 agreement is rebuttably presumed if neither the defendant nor anyone
2 with whom the defendant conspired does an overt act in furtherance of
3 the conspiracy during the applicable period of limitations.

4 * Sec. 2. AS 11.31.140 is amended to read:

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

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

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

15 (1) a crime defined by AS 11.31.100 - 11.31.120 [AS 11.31.-
16 100 OR AS 11.31.110]; and

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

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

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

25 (e) If a person conspires to commit more than one crime under
26 AS 11.31.120, the person commits only one crime of conspiracy if the
27 multiple crimes are the object of the same agreement.
28
29

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 20
PUBLISH DATE: 2/23/89

FISCAL NOTE

REQUEST: _____

REVISION DATE: _____
TITLE: "An act relating to the
crime of conspiracy"
SPONSOR: Sen. Rodey
REQUESTOR: Sen. Judiciary Cmte

AGENCY: Department of Law
BRU: Prosecution

COMPONENTS: Third Judicial
District

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERS. SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND/BUILD.						
GRANTS/CLAIMS						
MISCELLANEOUS						
TOTAL		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUNDS		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Please see the attached analysis

PREPARED BY: _____

Janice A. Faiks
Senator Jan Faiks, Chairman
Senate Judiciary Committee

DATE: February 20, 1989

PHONE NO.: 465-4523

Continuation of Fiscal Note Analysis for SB 20

Passage of the conspiracy laws contained in SB 20 will give the state an additional tool to use when criminal behavior cannot be prosecuted under existing laws regulating drug sales or prostitution. Prosecution under SB 20 is not mandatory, and may take place at the state's discretion as circumstances warrant, generally as an adjunct to an investigation and prosecution already taking place under existing laws, using existing resources.

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: "An Act relating to the crime of Conspiracy."
 Sponsor: Sen. Rodey
 Requestor: Senate Judiciary
 Agency Affected: Department of Law
 BRU: Prosecution
 Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		150.7	155.2	160.0	164.8	169.7
TRAVEL		10.8	11.1	11.4	11.7	12.1
CONTRACTUAL		17.4	17.9	18.4	19.0	19.6
SUPPLIES		11.4	11.7	12.1	12.5	12.9
EQUIPMENT		17.0	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		207.8	195.9	201.9	208.0	214.3

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		207.8	195.9	201.9	208.0	214.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: January 30, 1989
 Approved by Commissioner: Richard I. Pegues /FOR/
Grace Berg Schaible, Atty. Gen. Date: January 30, 1989
 Agency: Department of Law

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

RECEIVED
 JAN 31 1989

LEGISLATIVE FINANCE

SB 20

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 20

This bill makes it a crime for two or more persons to "conspire" together to violate state or municipal laws regarding drugs and prostitution. The bill allows persons to be prosecuted for conspiracy, even though the crime that was the object of a conspiracy was neither attempted nor completed.

Given the limits set by the bill, and the broad authority provided under existing law for the prosecution of persons involved in drug trafficking, enforcement activities undertaken as a result of this bill will be complicated and expensive. The focus of enforcement actions taken under this bill will be on major narcotics rings.

Investigation and prosecution of large-scale drug cases is extremely time-consuming and labor intensive. Major narcotics rings are carefully planned and organized, and it requires at least the same degree of planning and organization to detect, investigate, infiltrate, and ultimately break the rings. A conspiracy law will not decrease the amount of work involved in pursuing drug traffickers, rather conspiracy prosecutions will require the investment of significant time and effort on the part of state prosecutors. In addition, a conspiracy law will not cure the problematic and expensive practice of granting separate trials to co-defendants.

A good example of the complexities involved in prosecuting drug traffickers in the single big drug case that the state was able to pursue in FY85 -- the "Black Gold" heroin ring in Anchorage. The case involved 29 separate individuals (most charged with selling heroin), almost all of whom were granted separate trials, thus creating 29 cases out of a single operation. The "Black Gold" investigation required the "full-time" (12 hours a day, 6 or 7 days a week) direction and legal assistance of two experienced prosecutors for over two months. In addition to obtaining over 25 search warrants, the prosecutors, on a daily (and sometimes hourly) basis, consulted with and guided the efforts of three teams of officers: a "surveillance" team varying from 10-20 officers who kept track of the members of the ring; a "buy" team of 4-8 officers working closely with informants to purchase narcotics; and an "investigation" team of 2-6 officers who compiled telephone records and other evidence in order to discover links between individuals and organizations.

Under a conspiracy law, the scope of enforcement authority would be expanded to include more persons involved in the ring, leading to larger and more complicated investigations and prosecutions. Considering the sophistication of narcotics traffickers, and the efforts that would be necessary to implement a conspiracy law, the Department of Law believes that it will need the dedicated services of at least a full-time attorney, a paralegal, and a secretary in the Anchorage District Attorney's Office.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 20

	<u>Atty IV</u>	<u>P/A II</u>	<u>Leg. Sec. I</u>	<u>Total</u>
71000	73.4	45.0	32.3	150.7
72000	5.4	5.4	-0-	10.8
73000	6.6	6.6	4.2	17.4
74000	4.2	4.2	3.0	11.4
75000	6.5	2.5	8.5	17.5
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Total	96.1	63.7	48.0	207.8

Costs beyond FY 90 include a 3% annual inflation factor, less one-time equipment costs.