

HVB

43

HFIN

FILE

FISCAL NOTE

No. 6

Bill Version: HB 43

(H) Publish Date: 2/19/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: February 1, 1993

Title: "An Act relating to the crime of Conspiracy."

Sponsor: Representative Porter

Requestor: Representative Porter

Department Affected: Department of Law

BRU: Prosecution

Component: All

COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
-------------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared by: Richard I. Peques, Director
Division: Administrative Services Division

Phone: 465-3672
Date: February 1, 1993

Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Date: February 1, 1993

COMMITTEE COPY PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

HB 43
No. 6

ANALYSIS (Continued):

This bill creates a crime of conspiracy when two or more people agree to commit a criminal offense and one of them does some act in furtherance of the agreement. The bill extends the application of the conspiracy law to offenses against a person under AS 11.41, punishable as unclassified or class A felonies, and to offenses involving controlled substance, under AS 11.71, punishable as unclassified, class A, or class B felonies.

The Department of Law believes there will not be a significant increase in the number of cases due to the conspiracy law. Current law permits prosecution of those who directly commit crimes, as well as those who are accomplices (AS 11.16). Because our present accomplice law allows us to prosecute people who aid and abet a criminal, it is unlikely that the conspiracy law (which requires proof of an agreement to commit the crime) will result in significantly more cases being prosecuted. Instead, the crime of conspiracy will be added as another count in a case that would have been prosecuted anyway.

In those cases that cannot be charged under current law, the crime of conspiracy will permit some additional cases to be prosecuted and some fiscal impact could result, although there may be offsetting cost savings.

The major effect of the conspiracy law is to permit the introduction of additional evidence in a trial. Thus the jury is permitted to hear, for example, more evidence about the overall drug operation, rather than being limited to evidence about specific drug sales on specific dates. The jury does not therefore view those sales in isolation, but is allowed to see the "big picture", and the state's case is made stronger. We believe that defendants charged under the conspiracy law will cooperate with the state to try to get a reduced charge, and therefore fewer trials will occur. Another potential cost-savings is that multiple defendants charged with conspiracy will be able to be tried in a joint trial, rather than separate trials as is usually the practice now. Naturally the effects of any new law cannot be predicted with precise certainty. However, conspiracy laws and stiff drug penalties are nothing new in the rest of the country.

FISCAL NOTE

No. 5
 Bill Version: HB 43
 (H) Publish Date: 2/19/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: "An Act relating to crime of conspiracy." BRU: Statewide Programs
 Component: _____
 Sponsor: Representative Porter
 Requestor: _____ COMPONENT SERIAL NO. 700

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	365.0	365.0	365.0	365.0	365.0	365.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	365.0	365.0	365.0	365.0	365.0	365.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	365.0	365.0	365.0	365.0	365.0	365.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	365.0	365.0	365.0	365.0	365.0	365.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary)

See attached Analysis.

Prepared by: Dana LaTour, Special Assistant *Dana LaTour* Phone: 465-3376
 Division: Office of the Commissioner Date: 01/28/93
 Approved by Commissioner: Lloyd G. Rupp, Commissioner *Lloyd G. Rupp* Date: 01/28/93
 Agency: Department of Corrections

COMMITTEE COPY PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

House Bill 43 "An Act relating to the crime of conspiracy."

Page 2

ANALYSIS (cont.)

The bill would make it illegal to conspire to commit certain heinous crimes. Heinous crimes are defined as unclassified and class A felonies against the person under AS 11.41, or crimes involving controlled substances under AS 11.71 which are punishable as unclassified, class A, or class B felonies. Conspiracy would be the same class of offense as the most serious offense that was an object of the conspiracy.

Data on the number of cases and average sentences for conspiracy convictions is not available to the Department of Corrections since this has not been a crime in Alaska in the past. However, based on information obtained last session from the Department of Law, Criminal Division, it appears likely that the conspiracy statute would enable more effective prosecution of drug crimes in particular. Since conspiracies to commit murder, kidnapping, or other serious violent crimes rarely occur, the impact on the Department is unpredictable.

The Department of Law predicts that the conspiracy law will facilitate more effective prosecution of cases involving multiple defendants and may encourage defendants to cooperate with the state to get reduced charges. The result will be more offenders sentenced for drug charges, rather than increasing sentence length.

According to 1992 booking statistics, there were 203 offenders incarcerated whose most serious charge was an unclassified (10), class A (10), or class B (183) Misconduct Involving a Controlled Substance (MICS) offense.

If this bill results in a ten percent increase in convictions for drug offenses, about 20 additional cases will be added each year. Since 90% of the relevant MICS offenses are class B felonies, the mean sentence length for a MICS B felony is used to calculate additional bed-days. Mean sentence length is 20.1 months. Subtracting one-third of the sentence for statutory good time results in time served of slightly over one year. Twenty additional offenders serving one additional year would result in 7300 additional bed days per year.

Because populations within correctional facilities are already exceeding emergency caps, it is assumed that these offenders will either be placed in Community Residential Center (CRC) beds, or that other offenders in the correctional centers will be displaced and moved to CRC beds. The daily cost of CRC placement is \$50.

The calculation used in computing the cost is:

$$7300 \text{ bed days per year} \times \$50 \text{ per CRC bed} = \$365,000$$

FISCAL NOTE

House Bill 43 "An Act relating to the crime of conspiracy."

Page 3

ANALYSIS (cont.)

The estimated costs are based on CRC beds since it is not possible to predict when the increases in incarceration would actually require adding new prison beds to the system. Cost of placement in a correctional center is approximately \$100 a day.

The current prison beds are full. The Department's master plan indicates a need to build between 500 - 700 additional beds by 1996 if other measures to reduce inmate population are not addressed.

If this bill results in any substantial increase in convictions and prison sentences for offenses other than the 10% increase in drug offenses described above, or if sufficient prisoners cannot be diverted to community residential centers contract beds, then the effect of this bill may be to add additional pressure on the already overcrowded correctional facilities.

FISCAL NOTE

No. 4
 Bill Version: HB 43
 (H) Publish Date: 2/19/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to the crime of BRU: Trial Courts
conspiracy Components: _____
 Sponsor: Porter
 Requestor: House State Affairs COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	121.1	121.1	121.1	121.1	121.1	121.1
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	121.1	121.1	121.1	121.1	121.1	121.1

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	121.1	121.1	121.1	121.1	121.1	121.1
FEDERAL FUNDS						
OTHER						
TOTAL	121.1	121.1	121.1	121.1	121.1	121.1

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	3.0	3.0	3.0	3.0	3.0	3.0
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228
 Division: Alaska Court System Date: 12/04/92

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CSC*
 Agency: Alaska Court System Date: 12/04/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Fiscal Analysis

HB 43

This bill creates a new crime of conspiracy to promote or facilitate a heinous offense. Its purpose is to create a crime under which persons not presently prosecutable can be prosecuted.

The Department of Law has not estimated the number of prosecutions which will result from this legislation. When similar legislation was considered in 1987, the department projected a need for two additional attorneys, a paralegal, and a secretary, indicating a potentially large caseload. OPA has estimated that it will defend 25 co-defendants charged as a result of this legislation, in addition to those co-defendants represented by the Public Defender. Most of these co-defendants will be entitled to separate trials. Experience in other states and at the federal level demonstrates that conspiracy cases generally require extensive pre-trial motion work, and are more likely to go to trial than other felony cases.

Alaska Court System

HB 43
No. 4

Fiscal Analysis

HB 43

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge Anchorage, 12 months	\$24,150	\$16,841	\$40,991
Pro Tem Superior Court Judge Fairbanks, 6 months	12,251	8,439	20,690
Pro Tem Superior Court Judge Juneau, 6 months	12,075	8,420	20,495
In-Court Clerk, Anchorage	27,108	11,816	<u>38,924</u>
			<u>\$121,100</u>

Revision Date: _____ Dept. Affected: Public Safety
 : An Act relating to the crime of BRU: Alaska State Troopers
Conspiracy Component: Criminal Investigation Bureau
 Sponsor: Representative Porter
 Requestor: Representative Porter COMPONENT SERIAL NO. 830

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FINANCING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact upon the Alaska State Troopers is anticipated.

Prepared By: F/Sgt. Howard Burger Phone: 269-5976
 Division: Alaska State Troopers Date: 1/25/93
 Approved by Commissioner: Richard L. Burton Date: 1/25/93
 Agency: Richard L. Burton, Dept. of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

No. 2

Bill Version: HB 43

(H) Publish Date: 2/8/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____

Title: 'An Act relating to the crime of conspiracy.'

Sponsor: Representative Porter

Requestor: House Judiciary

Department Affected: Administration

BRU: Public Defender Agency

Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	347.6	358.0	368.7	379.8	391.2	402.9
TRAVEL	15.0	15.5	16.0	16.5	17.0	17.5
CONTRACTUAL	30.0	31.0	32.0	33.0	34.0	35.0
SUPPLIES	4.0	4.1	4.2	4.3	4.4	4.5
EQUIPMENT	5.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	402.6	408.6	420.9	433.6	446.6	459.9

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF	402.6	408.6	420.9	433.6	446.6	459.9
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	402.6	408.6	420.9	433.6	446.6	459.9

POSITIONS:

FULL-TIME	6.0	6.0	6.0	6.0	6.0	6.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: John Salemi, Public Defender
Division: Public Defender Agency

Phone: 273-7541
Date: _____

Approved by Commissioner: Nancy Bear Usery
Agency: Administration

Date: 1/29/93

COMMITTEE COPY PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

Position Title Attorney IV		No. of Positions 2	Range / Step 24/A	Barg. Unit PX
Time Status PFT	Staff Months 24.0	Location EBA - Fairbanks		Election District 20-7
TYPE OF EXPENDITURE		AMOUNT		
Salary	131,092.0	Justification These senior felony attorneys will be stationed, one in Anchorage and one in Fairbanks. The Anchorage attorney will represent clients in the First and Third Judicial Districts while the Fairbanks attorney will cover the Second and Fourth Judicial Districts.		
Benefits	43,985.0			
Premium Pay				
Other				
Total Personal Services	175,077.0			
Travel	10,000.0			
Contractual	19,000.0			
Commodities	2,000.0			
Equipment	3,000.0			
Other	209,077.0			
Total Cost	0.0			
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.P. Match	1003			
General Fund	1004	209,077.0		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

8/LEG93/17/028.kp/2

**Request For
New Position**

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 94

Page 2 of 4
 Revised Date: _____

HR 43
 No. 2

Position Title Investigator II		No. of Positions 2	Range / Step 16/A	Barg. Unit GGU	
Time Status PFT	Staff Months 24/0	Location EBA - Fairbanks		Election District 20-7	
TYPE OF EXPENDITURE		AMOUNT			
Salary	74,340.0	Justification These investigators will be based in Anchorage and Fairbanks but will provide services throughout the entire state.			
Benefits	30,218.0				
Premium Pay					
Other					
Total Personal Services	104,558.0				104,558.0
Travel					5,000.0
Contractual					7,000.0
Commodities					1,000.0
Equipment					1,500.0
Other					
Total Cost		119,058.0			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004		119,058.0		
I-A Receipts	1007				
CIP Receipts	1061				
Other					

8/LEG93/17/028.kp/3

Request For
New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 94

Page 3 of 4
Revised Date: _____

FR 13
No. 21

Position Title Clerk/Typist III		No. of Positions 2	Range / Step 8/A	Barg. Unit GGU
Time Status PFT	Staff Months 24.0	Location EBA - Fairbanks		Election District 7-20
TYPE OF EXPENDITURE		AMOUNT		
Salary	44,868.0	Justification These two support staff positions will be based in Anchorage and Fairbanks.		
Benefits	21,977.0			
Premium Pay				
Other				
Total Personal Services	66,845.0			
Travel	0.0			
Contractual	4,000.0			
Commodities	1,000.0			
Equipment	1,500.0			
Other				
Total Cost	73,345.0			
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	73,345.0		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

8/LEG93/17/028.kp/4

Request For New Position

AGENCY ADMINISTRATION
 BRU PUBLIC DEFENDER AGENCY
 COMPONENT PUBLIC DEFENDER AGENCY

FY 94

Page 4 of 4
Revised Date: _____

20
P
W

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Bill Version: HB 43
(H) Publish Date: 2/8/93

Revision Date: _____
Title: "An Act relating to the crime of conspiracy."
Sponsor: Representatives Porter and Phillips
Requestor: House Judiciary

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	118.9	122.5	126.2	130.0	133.9	137.9
TRAVEL						
CONTRACTUAL	381.1	392.5	404.3	416.4	428.9	441.8
SUPPLIES	2.0	2.1	2.2	2.3	2.4	2.5
EQUIPMENT	11.0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	513.0	517.1	532.7	548.7	565.2	582.2

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
-------------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF	513.0	517.1	532.7	548.7	565.2	582.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	513.0	517.1	532.7	548.7	565.2	582.2

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: None.

ANALYSIS: (Attach a separate page if necessary.)
See attached.

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: January 21, 1993

Approved by Commissioner: Nancy Bear Usera
Agency: Administration

Date: 1-29-93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB43

NO. 1
pg. 2 of 4

ANALYSIS: (continued)

The bill creates the new offense of conspiracy whose prosecution will have a dramatic fiscal impact on the Office of Public Advocacy (OPA). The following analysis will deal solely with the fiscal ramifications of the adoption of the individual sections of the proposed bill.

The creation of a new crime of "conspiracy" will make two or more people involved in a homicide, kidnapping, or felony drug offense prosecutable for this separate crime. The purpose of the bill is to create another crime under which persons supposedly not currently prosecutable can be prosecuted. Further, and most importantly from the fiscal perspective of this agency, these new defendants will be tried together in a single trial. Such charges will inevitably give rise to conflicts of interest among defendants which mandate the legal representation of each defendant by a separate attorney or agency.

The Office of Public Advocacy is responsible for providing representation for those with whom the Alaska Public Defender Agency has a conflict of interest. The great majority of defendants prosecuted under conspiracy laws will be found by the court to be indigent and qualified for Public Defender and OPA services. By definition, because the statute is designed to prosecute two or more people, the Office of Public Advocacy will be responsible for providing representation to one or more alleged co-conspirators in the great majority of the cases prosecuted under this new section. For example, if the Alaska Public Defender Agency is appointed to represent defendant number one in a conspiracy case, OPA will be appointed to provide representation, probably by a staff attorney, to defendant number two, and through contract counsel, to all other co-defendants in a particular case.

Cases filed under conspiracy statutes on the federal level and in other states routinely involve substantial attorney time, particularly for the preparation of pretrial motions. Due to the fact that the Department of Law investigation activity will probably focus on urban areas, the Office of Public Advocacy is requesting one experienced attorney and a legal secretary in Anchorage to handle representation of clients charged under the bill. Because the staff attorney can represent but one co-defendant in a given case, the Office of Public Advocacy must contract with private counsel for the representation of all other co-defendants determined to be indigent by the court.

It is anticipated that the complexity of this litigation will dictate high contract costs, which are estimated at \$15,000 per defendant. The Department of Law has not estimated the number of prosecutions it will initiate during FY 94 or subsequent years under the new conspiracy statute. The projected \$375,000 in contract costs is thus based on the assumption that the Office of Public Advocacy will only be responsible for 25 co-defendants charged under these statutes for which it cannot provide staff representation during the coming fiscal year.

It should be noted that conspiracy prosecutions are far more expensive to defend than to prosecute. The nature of the allegation means that two, and usually more, defendants—each represented by separate counsel—will be prosecuted by one or two Assistant District Attorneys. For example, in a typical conspiracy prosecution, the Department of Law and the Public Defender Agency will each be paying for one attorney, while the Office of Public Advocacy will be responsible for providing counsel to all of the remaining co-defendants.

Position Title Attorney IV		No. of Positions 1	Range / Step 24A	Barg. Unit PX
Time Status PFT	Staff Months 12.0	Location Anchorage/EBA		Election District 8
TYPE OF EXPENDITURE		AMOUNT		
Salary		61.0		
Benefits		21.5		
Premium Pay				
Other				
Total Personal Services		82.5		
Travel				
Contractual		3.4		
Commodities		1.0		
Equipment		3.6		
Other				
Total Cost		90.5		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	90.5		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification The Anchorage Office of Public Advocacy presently has three attorney positions devoted to criminal defense. These attorneys are also handling several major cases outside of the Anchorage area as staff coverage and travel is more cost-effective than contracting major cases to private attorneys in rural areas. Current caseloads indicate that these three attorneys cannot absorb the additional cases which would result from this legislation. It is necessary that an additional attorney be added to the Anchorage staff to cover the resultant increased caseload.				

6/fy94/13/02214.a

Request For New Position

AGENCY ADMINISTRATION
 BRU OFFICE OF PUBLIC ADVOCACY
 COMPONENT OFFICE OF PUBLIC ADVOCACY

FY 94

Page 1 of 1
 Revised Date:

No. 1
 15.384
 HB 43

Position Title Legal Secretary I		No. of Positions 1	Range / Step 10A	Barg. Unit GG
Time Status PFT	Staff Months 12.0	Location Anchorage/EBA		Election District 8
TYPE OF EXPENDITURE		AMOUNT		
Salary		24.8		
Benefits		11.6		
Premium Pay				
Other				
Total Personal Services		36.4		
Travel				
Contractual		2.7		
Commodities		1.0		
Equipment		7.4		
Other				
Total Cost		47.5		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	47.5		
I-A Receipts	1007			
CIP Receipts	1061			
Other				
Justification The Anchorage Office of Public Advocacy has three legal secretary positions providing clerical support to 14 professional positions and the Volunteer Guardian Ad Litem Program. The addition of an attorney with a full caseload necessitates the addition of another secretary. The clerical workload generated by an additional attorney cannot be absorbed by the current clerical staff.				

6/fy94/13/02214.b

Request For New Position

AGENCY ADMINISTRATION
 BRU OFFICE OF PUBLIC ADVOCACY
 COMPONENT OFFICE OF PUBLIC ADVOCACY

FY 94

Page 5 of 11
 Revised Date: _____

HRS 43
 No. 1
 B F G
 7

Alaska State Legislature



House of Representatives House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

February 18, 1993

LETTER OF INTENT

HB 43, Crime of Conspiracy

The House Judiciary Committee discussed several questions regarding the present fiscal notes to HB 43, An Act relating to the Crime of Conspiracy. In the committee's view, there may be some minimal impact upon the criminal justice system, but not nearly to the extent estimated by some of the criminal justice agencies. The Judiciary Committee respectfully suggests that the Finance Committee closely examine the assumptions upon which the fiscal notes for HB 43 are presently based.

Testimony presented to the committee indicated that, on the federal level, criminal defendants who are charged with both conspiracy and for the completed criminal offense are sometimes motivated to enter a plea admitting guilt to one or the other crime, disposing of the case in a timely and relatively efficient manner. This would tend to somewhat lessen the pressures on the criminal justice system, not increase them.

Several witnesses, including members of the defense bar, testified that Alaska's present criminal laws regarding accomplice liability and attempts are relatively broad; thus the range of criminal conduct that would be chargeable under a new conspiracy law is a narrow one. In the view of the committee, this position is consistent with the "zero" fiscal notes submitted by the Departments of Law and Public Safety.

Handwritten signature of Brian D. Porter in cursive.

Representative Brian Porter
Chairman, House Judiciary Committee



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Representative Brian Porter

SPONSOR STATEMENT

State Capitol
Juneau, AK 99801-1182

RE: HB 43, An Act Relating to the Crime of Conspiracy

I have introduced HB 43, which creates a new crime of "conspiracy" in state law. An offender commits this crime if:


1. with intent to commit a "serious felony offense,"
2. the offender agrees with one or more others to commit the offense, and
3. the offender or one of the others performs an overt act in furtherance of the conspiracy.

The offenses for which a conspiracy prosecution could be brought are listed in section 1, proposed AS 11.31.120(g), page 2, lines 1-4, and include unclassified or class A felonies against a person and unclassified, class A, or class B felonies involving controlled substances.

I believe that adoption of this bill will provide Alaska law enforcement officers and prosecutors with a valuable tool which is available to law enforcement authorities in the federal system and in most other states. If sufficient evidence of a conspiracy is obtained, charges may be filed and arrests made before the conspirators actually commit the underlying planned serious felony offense.

In addition to allowing the apprehension of offenders at an earlier stage of the planned crime, the adoption of a conspiracy law would permit the introduction of additional evidence in a trial. Thus the jury would be permitted to hear, for example, more evidence about the overall drug operation, rather than being limited to evidence about specific drug sales on specific dates. The jury therefore would not view the sales in isolation, but would see the "big picture." In cases where the underlying offense was actually committed, defendants charged both with conspiracy and another crime may be more likely to cooperate with the prosecution in an effort to obtain a reduced charge; this may reduce the number of trials. Another potential cost-savings is that multiple defendants charged with conspiracy will be able to be tried jointly, rather than in separate trials as is generally required now.

Alaska may be the only state in the nation that does not have a general conspiracy law. It's time that we give law enforcement officials in Alaska the same crime-fighting tools available in other states.



Representative Brian Porter

BILL NO: HB 43

DATE: January 29, 1993

TITLE: "An Act Relating to the
Crime of Conspiracy

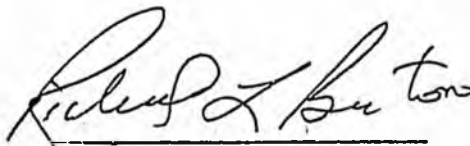
CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322

This bill would amend AS 11.31 Attempt and Solicitation, by adding a section concerning CONSPIRACY. A person commits the crime of "conspiracy" if,

1. with the intent to commit a felony crime,
2. the offender agrees with one or more persons to commit the crime,
and
3. the offender or one of the others performs an overt act in furtherance
of the conspiracy

The crimes for which a conspiracy prosecution could be brought are listed in section 11.31.120(g), page 2, line 31, and page 3, lines 1-4. The classification level of the crime (A felony, B felony, etc.) depends upon the seriousness of the underlying offense--see page 2, lines 3-30.

Adoption of this bill will provide Alaska law enforcement officers and prosecutors with a valuable tool which is available to law enforcement in the federal system and in most other states. If sufficient evidence of the conspiracy is obtained, charges may be filed and arrests made before the conspirators actually commit the underlying planned serious felony offense.



Richard L. Burton
Commissioner

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 22, 1993

SUBJECT: Sectional Summary of HB 43 (Work Order No. 8-LS0352\A)

TO: Representative Brian Porter
Attn: Gail

FROM: Jerry Luckhaupt *JEL*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill creates AS 11.31.120, the crime of conspiracy. That section would make it a crime for a person

- (1) with the intent to promote or facilitate a serious felony offense;
- (2) to agree with one or more other persons to engage in or cause that serious felony offense; and
- (3) an overt act in furtherance of the conspiracy is performed by one of the persons involved in the conspiracy.

This section clarifies criminal liability for certain situations, provides affirmative defenses that may be raised by the defendant, and defines "serious felony offense." Conspiracy is punishable as an unclassified, class A, class B or class C felony depending on the classification of the crime that was the object of the conspiracy.

Section 2 of the bill amends AS 11.31.140(a) to provide that it is not a defense to prosecution for conspiracy that the crime the defendant conspired to commit was actually committed.

Section 3 of the bill amends AS 11.31.140(b) to provide only one conviction for conspiracy, attempt, or solicitation is permitted for conduct that was designed to commit the same crime.

Section 4 of the bill amends AS 11.31.140(d) permits a prosecutor to charge both conspiracy to commit an offense and commission of the underlying offense.

Representative Brian Porter
January 22, 1993
Page 2

Section 5 of the bill amends AS 12.25.125(b) to provide that a person convicted of conspiracy to commit murder in the first degree shall be sentenced to a definite term of imprisonment of not less than five years and not more than 99 years.

GPL:gc
93-041.glc



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

State Capitol
Juneau, AK 99801-1182

To: Representative Eileen MacLean
Representative Ron Larson
Co-Chairs, House Finance Committee

From: Representative Brian Porter *BP*

Re: HB 43, Crime of Conspiracy

Date: February 22, 1993

I am writing to request that you schedule a hearing on a bill presently before the House Finance Committee: HB 43, An Act relating to the crime of conspiracy. Adoption of this bill will provide Alaskan law enforcement officers with a valuable tool which is available in the federal system and in most other states.

HB 43 was passed out of the House Judiciary Committee without amendment on February 17, 1993, with three members signing "do pass" and two members signing "no recommendation". The committee also adopted a Letter of Intent dealing with the fiscal notes submitted by various state agencies. The entire committee file on HB 43, including the Letter of Intent, has been delivered to the Finance Committee staff, so I have not attached additional copies to this memo. I would, of course, be glad to supply any additional information that the committee might require.

I would be grateful for your consideration of a prompt hearing on HB 43. There is a similar bill now under consideration in the Senate, SB 19. That bill is set for a hearing in the Senate Judiciary Committee today. Please contact me or Judiciary Committee Counsel Gayle Horetski at 465-6841 if you have any questions.

Back up



KENAI POLICE DEPT.

107 SOUTH WILLOW ST., KENAI, ALASKA 99611

TELEPHONE 283-7879

Representative Brian Porter
House of Representatives
State Capitol
Juneau, Alaska 99811

February 17, 1993


Dear Representative ^{Porter} Porter,

I support passage of House Bill 43. Alaska is not breaking new ground with enactment of a conspiracy statute. This is a tool that the Federal Justice System and most other States have. The statute proposed is even narrower and more limited in scope in that it would only apply to crimes against persons and drug enterprise at the major felony level.

This is not a tool that would be frequently used. In my experience on the Kenai Peninsula there have only been a few occasions that come to mind in which it would have been applicable. It does give law enforcement and the prosecution a pre-emptive and proactive capability for preventing major criminal offenses. It also allows the prosecution to present the jury with evidence that demonstrates the broader picture of the crime or criminal enterprise involved.

The ability to try multiple defendants together, if authorized by the bill, would expedite court hearings and trials. This would result in time and monetary savings to all components of the justice system. Fiscal notes attached to this bill should be examined with a great deal of care and some degree of suspicion.

Respectfully,


Richard A. Ross
Chief of Police

RAR/lw

FBI National Academy Associates

Alaska Chapter



February 16, 1993

Representative Brian Porter
Alaska State Legislature
Box V
Juneau, AK 99811

Dear Representative Porter:

The Alaska Chapter of the FBI National Academy Associates is supporting House Bill 43 (An Act relating to the Crime of Conspiracy).

Alaska's criminal justice system will be enhanced with passage of this bill. Law enforcement in Alaska requires legislation which offers the ability through the judicial system to prosecute those individuals or groups involved with the crime of conspiracy.

I have spoken with Chief O'Leary from the Anchorage Police Department and he "absolutely" supports and concurs with this legislation.

We strongly support your efforts toward passage of HB 43.

Sincerely,

Timothy W. Foster
President

TWF/ljc

Post-It™ brand fax transmittal memo 7871 # of pages > 1

To <i>Porter</i>	From <i>Tim</i>
Co.	Co.
Dept.	Phone #
Fax #	Fax #

FBI/AA
Officers &
Executive Board

President
Tim Foster, 150th
Anchorage Int'l Airport
Safety, P.O. Box 190623
Anchorage, Alaska 99519-0623
266-2405

Secretary
Shirley Warner, 154th
Anchorage Police
Department,
4501 S. Bragaw St.
Anchorage, Alaska
99507-1599
788-8558

John Murphy, 130th, Past President
Phil Gilson, 139th, VP, South Central
Mike Gorkill, 169th, VP, Northern
Skip Ode, 163rd, VP, Southern

Alaska Association Chiefs of Police



Received

JAN 28 1993

REP BRIAN PORTER

January 25, 1993

Representative Brian Porter
House of Representatives
State Capitol
Juneau, Alaska 99811

Dear Representative Porter:

On behalf of the Alaska Association of Chiefs of Police I would like to express our support for House Bill 43. For several years Alaskan law enforcement has been united in its request to the legislature for a Statute dealing with the Crime of Conspiracy.

There have been many serious felony crimes committed over the years that may well not have occurred if law enforcement had been able to pursue the offenders utilizing a Conspiracy Statute. Limiting conspiracy to serious felony offenses only is a sensible approach that should alleviate some past concerns.

If we can be of any assistance in the passage of your bill please let me know.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Ron", is written over the typed name of the sender.

Ronald L. Otte
President

RLO/lp



Alaska Action Trust

P.O. Box 102323 • Anchorage, Alaska 99510
Office: 540 "L" Street, Suite 206 • Anchorage, AK 99501
(907) 258-4040 • FAX (907) 276-7185

FAX TRANSMITTAL

TO: Representative Porter, Chair of House Judiciary
Representative James, Vice-Chair of House Judiciary
Representative Kott
Representative Phillips
Representative Green
Representative Davidson
Representative Nordlund

DATE: February 15, 1993

RE: SB 19: "An Act Relating to the Crime of Conspiracy"
HB 43: "An Act Relating to the Crime of Conspiracy"

This Position Paper is prepared on behalf of the Alaska Action Trust. It is prepared by the Criminal Section of the Trust. The Alaska Action Trust vigorously opposes both bills.

These bills create a new crime of conspiracy and unfairly increase the potential pool of defendants to include individuals who have taken no steps whatsoever to commit any felony, but have merely voiced an agreement to commit a felony, so long as any other person within the broad group does an "overt act" in furtherance of the felony. There is no requirement that the conspiracy actually go beyond one overt act by anyone. The bill does not even tell what is meant by an overt act.

An inevitable result of this act will be to broaden the pool of potential defendants so that noncriminal citizens will be

forced, under threat of criminal prosecution, to come forward to give evidence to the government. The federal use of conspiracy law is to force individuals into early plea bargains so that their testimony can be used to convict others. Given that the government of this state has been on record for many years as prohibiting plea bargaining and government involvement in deal making, this bill is totally inappropriate.

The accomplice liability and attempt provisions already the law in this state are quite adequate to prosecute those who should be prosecuted for criminal activity. Those provisions are quite adequate to punish and deter individuals whose conduct deserves punishment.

This bill will be extremely costly to the citizens of Alaska to implement. First, a great number of individuals will be prosecuted simply for speech, so there will be many more citizens brought into the criminal system. Each citizen will be entitled to his or her own criminal defense attorney, most of whom will be court appointed at public expense. Because federal and state constitutions require each charged defendant to have his or her own attorney who is not part of the office of the criminal defense attorneys for other lawyers, many of these people will not be defended by the Public Defender or the Office of Public Advocacy. Of course, each of those agencies will have their own caseloads greatly increased because the Public Defender will represent the first defendant charged in the conspiracy, the Office of Public Advocacy will represent the second individual charged in the

conspiracy, and all others will receive attorneys hired at public expense through the Office of Public Advocacy. In addition to the costs of defending this very large new pool of defendants, there will be greatly increased costs of imprisoning in Alaska's already overcrowded prison system those whose only "crime" was speech.