

# HOUSE BILL REPORT

## HB 1049

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**As Passed House:**

February 3, 1995

**Title:** An act relating to criminal conspiracy.

**Brief Description:** Removing a defense to the crime of criminal conspiracy.

**Sponsors:** Representatives Padden and Schoesler.

**Brief History:**

**Committee Activity:**

Law & Justice: 1/18/95, 1/24/95, 1/25/95 [DP].

**Floor Activity:**

Passed House: 2/3/95.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass. Signed by 15 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith and Veloria.

**Staff:** Edie Adams (786-7180).

**Background:** A person is guilty of criminal conspiracy if he or she intends that conduct constituting a crime be performed, agrees with another person or persons to cause the performance of such conduct, and any one of them takes a substantial step in pursuance of the agreement.

It is not a defense to criminal conspiracy that the person or persons with whom the accused allegedly conspired: (1) has not been prosecuted or convicted; (2) has been convicted of a different offense; (3) is not amenable to justice; (4) has been acquitted; or (5) lacked the capacity to commit an offense.

A recent Washington Supreme Court decision held that the crime of criminal conspiracy requires a bilateral agreement among the co-conspirator, meaning that both the conspirator and at least one co-conspirator must intend for the crime to be committed. The court held that a person is not guilty of conspiracy if the only coconspirator was a police officer who did not intend for a crime to be committed.

**Summary of Bill:** It is not a defense to a criminal conspiracy charge that the person with whom the accused is alleged to have conspired is a police officer or other government agent who did not intend for a crime to be committed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Undercover officers should be able to charge persons who approach them with offers to engage in criminal conduct. This bill is needed to prevent the elimination of undercover investigations by police officers.

**Testimony Against:** None.

**Testified:** Mike Patrick, Washington State Council of Police Officers (pro); and Larry Erickson, Washington State Sheriffs and Police Chiefs (pro).