

# HOUSE BILL REPORT

## SB 5085

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**As Passed House**

April 8, 1997

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

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

**Sponsors:** Senators Roach, Swecker, McCaslin and Winsley.

**Brief History:**

**Committee Activity:**

Law & Justice: 3/26/97 [DP].

**Floor Activity:**

Passed House: 4/8/97, 95-0.

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

**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 anyone 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) have not been prosecuted or convicted; (2) have been convicted of a different offense; (3) are not amenable to justice; (4) have been acquitted; or (5) have lacked the capacity to commit an offense.

As interpreted by the Washington Supreme Court, the crime of criminal conspiracy requires a bilateral agreement among the co-conspirators, meaning that both the conspirator and at least one co-conspirator must intend for the crime to be committed. A person is not guilty of conspiracy if the only co-conspirator is 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:** The Washington Supreme Court ruled, in a 5-4 decision based on legislative intent, that the criminal conspiracy statute requires a bilateral agreement between co-conspirators. This bill clarifies that the Legislature intended that the criminal conspiracy statute only require a unilateral agreement. This is good policy that is in conformance with the Model Penal Code and will enable law enforcement to nip criminal activity in the bud.

**Testimony Against:** None.

**Testified:** Art Curtis, Clark County Prosecuting Attorney and Washington Association of Prosecuting Attorneys.