

Legislative Analysis



CONSPIRACY AND SOLICITATION TO COMMIT MURDER: ELIMINATE STATUTES OF LIMITATIONS

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House Bill 4528 as enrolled
Public Act 35 of 2005
Sponsor: Rep. David Law
House Committee: Judiciary
Senate Committee: Judiciary

Second Analysis (8-23-06)

BRIEF SUMMARY: The bill would eliminate the statute of limitations on conspiracy to commit murder and solicitation to commit murder.

FISCAL IMPACT: By eliminating the statutes of limitations on conspiracy to commit murder and solicitation to commit murder, the bill could increase state correctional costs.

THE APPARENT PROBLEM:

There is no statute of limitations on murder, yet current law places a ten-year statute of limitations on the crime of conspiracy to commit murder. The crime of solicitation to commit murder falls within the general category of crimes that has a six-year statute of limitations. This discrepancy poses several problems for law enforcement personnel. Sometimes, a case may take longer than six or ten years to build. For instance, witnesses may be reluctant to testify, a suspect may be in hiding, and so on. In other cases, there may be insufficient evidence to convict an individual on a murder charge, but proof may exist to support the lesser charges of conspiracy to commit murder or solicitation to commit murder. However, if six or ten years has elapsed since the commission of the crime, the option of a solicitation or conspiracy charge is lost. A prosecutor may be forced to drop all charges or charge the individual with murder, even though such a charge could carry a greater chance of acquittal.

Several years ago, prosecutors in Oakland County were faced with this type of scenario. A case involving the murder of a woman was reopened when relatives of a man allegedly hired by the woman's husband to commit the murder came forward with knowledge of the crime. Reportedly, the level of proof might have been sufficient to sustain a charge of conspiracy to commit murder or solicitation to commit murder. Unfortunately, since the murder had occurred more than 10 years before, the statute of limitations had run out for both of those charges. At the request of the Oakland County Prosecutor's Office, legislation has been offered to eliminate the statutes of limitations for the crimes of conspiracy to commit murder and solicitation to commit murder.

THE CONTENT OF THE BILL:

The bill would amend the Code of Criminal Procedure (MCL 767.24) to eliminate the 10-year statute of limitations for the crime of conspiracy to commit murder and to include the crime of solicitation to commit murder in the list of crimes for which there is no statute of

limitations. Under the bill, an indictment for conspiracy to commit murder or solicitation to commit murder could be found and filed at any time.

ARGUMENTS:

For:

The crime of murder does not have a statute of limitations, meaning that an individual can be arrested and charged with murder regardless of how many years have passed since the commission of the crime. Unfortunately, the same is not true of the crime of conspiracy to commit murder, which has a ten-year statute of limitations and the crime of solicitation of murder, which has a six-year statute of limitations. In theory, a person who hired someone to kill another person could in effect “get away with murder” if evidence linking him or her to the crime went undisclosed for more than ten years. Such scenarios, though rare, do happen. Therefore, this inconsistency in the law should be changed. A person who conspires with others or hires a person to end the life of another should face the same time frame for prosecution as those who actually commit the murder.

Response:

Could not the same arguments apply to elimination of the statute of limitations for other similar crimes, such as attempted murder or assault with intent to commit murder?

Against:

There are reasons why the law contains statutes of limitations. As time passes, evidence that would support a person’s innocence can be lost. For instance, if a false statement were made against an individual involving the commission of conspiracy to commit murder from 10, 15, 20 or more years ago, it could be quite difficult to assemble witnesses to prove innocence. The same is true of the crime of solicitation to commit murder. The law should be left as it is.

Response:

Being accused by another of a crime usually is not basis enough for criminal prosecution. Corroborating evidence is generally needed to convince a jury of a person’s guilt. Additionally, since a conspiracy or solicitation to commit murder charge typically involves more than one person, charges would have to be brought against several individuals for a particular murder. Therefore, the chance is slim that elimination of the statutes of limitations for the crimes of conspiracy to commit murder and solicitation to commit murder would result in the incarceration of innocent, falsely accused individuals. However, in those cases in which compelling evidence arises more than six or ten years after the commission of the crime, the guilty parties should be brought to justice. Elimination of the statute of limitations for conspiracy to commit murder and solicitation to commit murder would enable prosecutors to prosecute those individuals whose actions precipitated the death of another, but who did not actually commit the murder. Since the one who did commit the murder is not protected from prosecution by a time frame, neither should the person who hired, cajoled, convinced, or threatened that person into the commission of the crime.

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