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## CONSPIRACY TO COMMIT MURDER: ELIMINATE STATUTE OF LIMITATIONS

### House Bill 4757 (Substitute H-1) First Analysis (5-23-01)

**Sponsor: Rep. Andrew Raczkowski**  
**Committee: Criminal Justice**

#### ***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. This discrepancy can pose several problems for law enforcement personnel. Sometimes, a case may take longer than ten years to build. For instance, witnesses may be reluctant to provide testimony, 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 charge of conspiracy to commit murder. However, if ten years has elapsed since the commission of the crime, the option of a 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.

Recently, prosecutors in Oakland County were faced with this type of scenario. A case involving a 19 year-old 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. Apparently, the level of proof could be sufficient to sustain a charge of conspiracy to commit murder. Unfortunately, since the murder occurred 19 years ago, the statute of limitations has long since run out. At the request of the Oakland County Prosecutor's Office, legislation has been offered to eliminate the statute of limitations for the crime of conspiracy to commit murder.

#### ***THE CONTENT OF THE BILL:***

Currently, an indictment for conspiracy to commit murder must be filed within 10 years after the offense is committed. The bill would amend the Code of Criminal Procedure to eliminate the statute of limitations and allow an indictment for conspiracy to commit murder to be found and filed at any time after the offense was committed. The bill would state that the extension of the limitations period provided in the

bill would apply to violations for which the limitations period had not expired at the time the bill takes effect.

MCL 767.24

#### ***BACKGROUND INFORMATION:***

Earlier this year, Public Act 6 of 2001, among other things, eliminated the statute of limitations for both first-degree criminal sexual conduct and an explosives offense punishable by imprisonment for life. (For more information, see the Senate Fiscal Agency's analysis of Senate Bill 1 dated 5-7-01.)

#### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, there are no available data that indicate the frequency with which convictions for conspiracy to commit murder are obtained. Since, however, relatively few crimes are solved more than ten years after their commission, the agency reports that it would be reasonable to assume that the number of convictions made possible by the bill would be few. Costs to the Department of Corrections, therefore, would be relatively low. (5-21-01)

#### ***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. 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

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than ten years. Such scenarios, though rare, do happen. Therefore, this inconsistency in the law should be changed. A person who conspires with others 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 for him or her to assemble witnesses to prove his or her innocence. 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 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 statute of limitations for the crime of conspiracy to commit murder would result in the incarceration of innocent, falsely accused individuals. However, in those cases in which compelling evidence arises more than 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 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.

Besides, the bill contains language clarifying that the elimination of the ten-year statute of limitations would only apply to cases that have not yet exceeded the current ten-year limitation. Therefore, passage of the bill would not provide relief to the Oakland County Prosecutor's Office in the case discussed above. Since that murder was committed over 19 years ago, the statute of limitations has long since

expired. The bill would only apply to conspiracy cases that have not yet reached the ten-year limitation as of the bill's effective date.

***POSITIONS:***

The Department of State Police supports the bill. (5-21-01)

The Oakland County Prosecutor's Office supports the bill. (5-21-01)

Analyst: S. Stutzky

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.