

ASSEMBLY BILL NO. 19—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA DISTRICT
ATTORNEYS ASSOCIATION)

PREFILED JANUARY 26, 2007

Referred to Committee on Judiciary

SUMMARY—Revises the provisions pertaining to the criminal liability of parties to crimes. (BDR 15-320)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; revising the provisions pertaining to the criminal liability of parties to crimes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law classifies the parties to a crime as principals and accessories. (NRS 195.010) A person is a principal party to a crime if the person directly commits the crime, aids or abets in the commission of the crime, or directly or indirectly “counsels, encourages, hires, commands, induces or otherwise procures another to commit” a crime. If a person qualifies as a principal party to a crime, the person must be “proceeded against and punished” as a principal. (NRS 195.020)

In *Bolden v. State*, the Nevada Supreme Court addressed the issue of whether a person who is a party to a conspiracy to commit a crime is criminally liable for a specific intent crime committed by a coconspirator solely because the crime was a natural and probable consequence of the conspiracy. (121 Nev. Adv. Op. 86, 124 P.3d 191 (Nev. 2005)) The Nevada Supreme Court held that a person who is a party to a conspiracy to commit a crime “may not be held criminally liable for the specific intent crime committed by a coconspirator simply because that crime was a natural and probable consequence of the object of the conspiracy.” (*Id.* at 200) According to the court, “to prove a specific intent crime, the State must show that the defendant actually possessed the requisite statutory intent.” (*Id.* at 200-01) The basis for the court’s decision was the lack of a statute providing that a person who is a party to a conspiracy to commit a crime is criminally liable for the specific intent crimes committed by a coconspirator solely because the crime was a natural and probable consequence of the conspiracy. (*Id.* at 200)



This bill provides that a person who is a party to a conspiracy to commit a crime is liable as a principal for a crime committed by a coconspirator if the crime is: (1) the object of the conspiracy; or (2) in furtherance of the object of the conspiracy and reasonably foreseeable as a natural and probable consequence of the object of the conspiracy.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 195.020 is hereby amended to read as follows:

195.020 **1.** Every person concerned in the commission of a ~~{felony, gross misdemeanor or misdemeanor, whether he directly commits the act constituting the offense, or aids or abets in its commission, and}~~ **crime**, whether present or absent, ~~{; and every person who, directly or indirectly, counsels, encourages, hires, commands, induces or otherwise procures another to commit a felony, gross misdemeanor or misdemeanor}~~ is a principal ~~{}~~ and shall be proceeded against and punished as such.

2. A person is concerned in the commission of a crime if the person:

(a) Directly commits the act constituting the crime;

(b) Aids or abets another person in the commission of the crime;

(c) Is a party to a conspiracy to commit a crime and the crime committed is:

(1) The object of the conspiracy; or

(2) Committed in furtherance of the object of the conspiracy and reasonably foreseeable as a natural and probable consequence of the object of the conspiracy, regardless of whether that consequence was intended as part of the original plan and regardless of whether the crime committed is a general intent crime or specific intent crime; or

(d) Directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another person to commit the crime.

3. The fact that the person aided, abetted, counseled, encouraged, hired, commanded, induced or procured ~~{}~~ could not or did not entertain a criminal intent shall not be a defense to any person aiding, abetting, counseling, encouraging, hiring, commanding, inducing or procuring him.

