

CHAPTER 2

Inchoate Crimes

SECTIONS

- § 201. **Attempts.**
- § 202. **Solicitation.**
- § 203. **Conspiracy.**
- § 204. **Penalties for attempt, solicitation, and conspiracy.**

Editor's note: Former chapter 2 of this title on Inchoate Crimes (§§ 201-204) was repealed in its entirety by PL 11-72 § 2. This new chapter 2 was enacted by PL 11-72 § 12 and is part of the Revised Criminal Code Act.

§ 201. Attempts.

(1) A person commits the crime of an attempt to commit a crime if, with intent to commit a national crime, he or she does an act which constitutes a substantial step in a course of conduct planned to culminate in the commission of that crime.

(2) It is an affirmative defense to a charge of attempt that the crime was not committed because the defendant desisted voluntarily and in good faith and abandoned his or her intention to commit the crime.

(3) Conduct shall not be considered a substantial step under this section unless it is strongly corroborative of the defendant's criminal intent.

Source: PL 11-72 § 13.

Case annotations: National civil rights claims under 11 F.S.M.C. 701 furnish a jurisdictional basis for the case to be heard by the FSM Supreme Court. *Panuelo v. Pohnpei*, 2 FSM R. 150, 153 (Pon. 1986).

Cross-reference: The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 of this code.

§ 202. Solicitation.

(1) A person commits the crime of solicitation if, with intent to promote or facilitate the commission of a national crime, he or she commands, encourages, or requests another person to engage in conduct or cause the result specified by the definition of the crime, which would be sufficient to establish complicity in the specified conduct or

result.

(2) Communication with the person being solicited may be direct or indirect. It is immaterial under subsection (1) of this section that the defendant fails to actually communicate with the person being solicited or if the defendant fails to convince the person being solicited to participate.

(3) It is an affirmative defense to the prosecution for solicitation that the defendant, under circumstances showing a complete and voluntary renunciation of his or her criminal intent, made a reasonable effort to prevent the conduct or result solicited.

Source: PL 11-72 § 14.

§ 203. Conspiracy.

(1) A person commits the crime of conspiracy if he or she agrees with one or more persons to:

- (a) commit any crime; and
- (b) any party to the conspiracy commits an overt act in furtherance of the conspiracy.

(2) If a person conspires to commit a number of crimes, he or she is guilty of only one conspiracy if the multiple crimes are the object of the same agreement or continuous conspiratorial relationship.

(3) The agreement to conspire may be implicit or explicit and need not be oral or in writing but may be shown by the circumstances surrounding the conduct of the conspirators.

(4) The crime underlying the conspiracy need not have been accomplished for the crime of conspiracy to occur.

(5) Nothing in this section shall be construed as a bar to prosecution of the underlying crime.

(6) A defendant is responsible for all actions of a co-conspirator that are taken in furtherance of the conspiracy, whether or not those actions were part of any plan and whether or not the defendant was privy to them.

(7) It is an affirmative defense to a prosecution for conspiracy that the defendant, under circumstances showing a complete and voluntary renunciation of criminal intent, made a reasonable effort to prevent the conduct or result which was the object of the conspiracy.

Source: PL 11-72 § 15.

§ 204. Penalties for attempt, solicitation, and conspiracy.

A person convicted of attempt, solicitation, or conspiracy shall be imprisoned:

(1) for not more than ten years if the maximum sentence provided for any crime which was the object of the attempt, solicitation, or conspiracy is life imprisonment; or

(2) for not more than one-half the maximum sentence which is provided for the most serious crime which

was the object of the attempt, solicitation, or conspiracy, if the maximum is less than life imprisonment.

Source: PL 11-72 § 16.