

Criminal solicitation in the first degree is a felony.

**406 CRIMINAL SOLICITATION; NO DEFENSE**

It is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the crime solicited owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose or to other factors precluding the mental state required for the commission of the crime in question.

**407 CRIMINAL SOLICITATION; EXEMPTION**

A Native American is not guilty of criminal solicitation when his solicitation constitutes conduct of a kind that is necessarily incidental to the commission of the crime solicited. When under such circumstances the solicitation constitutes an offense other than criminal solicitation which is related to but separate from the crime solicited, the actor is guilty of such related and separate offense only and not of criminal solicitation.

**B. CONSPIRACY**

**408 CONSPIRACY IN THE SIXTH DEGREE**

A Native American is guilty of conspiracy in the sixth degree when, with intent that conduct constituting a crime be performed, he agrees with one or more persons to engage in or cause the performance of such conduct.

Conspiracy in the sixth degree is a misdemeanor.

**409 CONSPIRACY IN THE FIFTH DEGREE**

A Native American is guilty of conspiracy in the fifth degree when, with intent that conduct constituting:

1. a felony be performed, he agrees with one or more persons to engage in or cause the performance of such conduct; or
2. a crime be performed, he, being over eighteen years of age, agrees with one or more persons under sixteen years of age to engage in or cause the performance of such conduct.

Conspiracy in the fifth degree is a misdemeanor.

**410 CONSPIRACY IN THE FOURTH DEGREE**

A Native American is guilty of conspiracy in the fourth degree when, with intent that conduct constituting:

1. a felony be performed, he agrees with one or more persons to engage in or cause the performance of such conduct; or
2. a felony be performed, he, being over eighteen years of age, agrees with one or more persons under sixteen years of age to engage in or cause the performance of such conduct.

Conspiracy in the fourth degree is a felony.

#### **411 CONSPIRACY IN THE THIRD DEGREE**

A Native American is guilty of conspiracy in the third degree when, with intent that conduct constituting a felony be performed, he, being over eighteen years of age, agrees with one or more persons under sixteen years of age to engage in or cause the performance of such conduct.

Conspiracy in the third degree is a felony.

#### **412 CONSPIRACY IN THE SECOND DEGREE**

A Native American is guilty of conspiracy in the second degree when, with intent that conduct constituting a felony be performed, he agrees with one or more persons to engage in or cause the performance of such conduct.

Conspiracy in the second degree is a felony.

#### **413 CONSPIRACY IN THE FIRST DEGREE**

A Native American is guilty of conspiracy in the first degree when, with intent that conduct constituting a felony be performed, he, being over eighteen years of age, agrees with one or more persons under sixteen years of age to engage in or cause the performance of such conduct.

Conspiracy in the first degree is a felony.

#### **414 CONSPIRACY; PLEADING AND PROOF; NECESSITY OF OVERT ACT**

A Native American shall not be convicted of conspiracy unless an overt act is alleged and proved to have been committed by one of the conspirators in furtherance of the conspiracy.

#### **415 CONSPIRACY; JURISDICTION AND VENUE**

1. A Native American may be prosecuted for conspiracy in the county in which he entered into such conspiracy or in any county in which an overt act in furtherance thereof was committed.
2. An agreement made within the territorial jurisdiction of the Oneida Indian Nation to engage in or cause the performance of conduct in another jurisdiction is punishable herein as a conspiracy only when such conduct would constitute a crime both under the laws of the Nation if performed herein and under the laws of the other jurisdiction if performed therein.
3. An agreement made in another jurisdiction to engage in or cause the performance of conduct within this state, which would constitute a crime herein, is punishable herein only when an overt act in furtherance of such conspiracy is committed within this state. Under such circumstances, it is no defense to a prosecution for conspiracy that the conduct which is the objective of the conspiracy would not constitute a crime under the laws of the other jurisdiction if performed therein.

#### **416 CONSPIRACY; NO DEFENSE**

It is no defense to a prosecution for conspiracy that, owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the agreement or the object conduct or

of the defendant's criminal purpose or to other factors precluding the mental state required for the commission of conspiracy or the object crime, one or more of the defendant's co-conspirators could not be guilty of conspiracy or the object crime.

#### **417 CONSPIRACY; ENTERPRISE CORRUPTION; APPLICABILITY**

For the purposes of this code, conspiracy to commit the crime of enterprise corruption shall not constitute an offense.

### **C. ATTEMPT**

#### **418 ATTEMPT TO COMMIT A CRIME**

A Native American is guilty of an attempt to commit a crime when, with intent to commit a crime, he engages in conduct which tends to effect the commission of such crime.

#### **419 ATTEMPT TO COMMIT A CRIME; PUNISHMENT**

An attempt to commit a crime is a:

1. A felony when the crime attempted is a felony.
2. A misdemeanor when the crime attempted is a misdemeanor.

#### **420 ATTEMPT TO COMMIT A CRIME; NO DEFENSE**

If the conduct in which a person engages otherwise constitutes an attempt to commit a crime it is no defense to a prosecution for such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if such crime could have been committed had the attendance circumstances been as such person believed them to be.

#### **421 CRIMINAL FACILITATION IN THE FOURTH DEGREE**

A Native American is guilty of criminal facilitation in the fourth degree when, believing it probable that he is rendering aid:

1. to a Native American who intends to commit a crime, he engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit a felony; or
2. to a Native American under sixteen years of age who intends to engage in conduct which would constitute a crime, he, being over eighteen years of age, engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit a crime.

Criminal facilitation in the fourth degree is a misdemeanor.

#### **422 CRIMINAL FACILITATION IN THE THIRD DEGREE**

A Native American is guilty of criminal facilitation in the third degree, when believing it probable that he is rendering aid to a person under sixteen years of age who intends to engage in conduct that would constitute a