
ENGROSSED SENATE BILL 6261

State of Washington

52nd Legislature

1992 Regular Session

By Senators Roach, Stratton, L. Smith, Murray, Cantu, Jesernig, Hayner, Thorsness, Amondson and Erwin

Read first time 01/23/92. Referred to Committee on Children & Family Services.

1 AN ACT Relating to the well-being of children; and amending RCW
2 9.68A.110.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.68A.110 and 1989 c 32 s 9 are each amended to read
5 as follows:

6 (1) In a prosecution under RCW 9.68A.040, it is not a defense that
7 the defendant was involved in activities of law enforcement and
8 prosecution agencies in the investigation and prosecution of criminal
9 offenses. Law enforcement and prosecution agencies shall not employ
10 minors to aid in the investigation of a violation of RCW 9.68A.090 or
11 9.68A.100. (~~(This chapter does not apply to individual case treatment
12 in a recognized medical facility or individual case treatment by a
13 psychiatrist or psychologist licensed under Title 18 RCW, or to lawful
14 conduct between spouses.)~~)

1 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or
2 9.68A.080, it is not a defense that the defendant did not know the age
3 of the child depicted in the visual or printed matter: PROVIDED, That
4 it is a defense, which the defendant must prove by a preponderance of
5 the evidence, that at the time of the offense the defendant was not in
6 possession of any facts on the basis of which he or she should
7 reasonably have known that the person depicted was a minor or that the
8 defendant made a reasonable bona fide attempt to ascertain the true age
9 of the minor by requiring production of a driver's license, marriage
10 license, birth certificate, or other governmental or educational
11 identification card or paper and did not rely solely on the oral
12 allegations or apparent age of the minor.

13 (3) In a prosecution under RCW 9.68A.040(~~(, 9.68A.050, 9.68A.060,)~~)
14 or 9.68A.090, it is not a defense that the defendant did not know the
15 alleged victim's age: PROVIDED, That it is a defense, which the
16 defendant must prove by a preponderance of the evidence, that at the
17 time of the offense, the defendant (~~(reasonably believed the alleged~~
18 ~~victim to be at least eighteen years of age based on declarations by~~
19 ~~the alleged victim)) made a reasonable bona fide attempt to ascertain
20 the true age of the minor by requiring production of a driver's
21 license, marriage license, birth certificate, or other governmental or
22 educational identification card or paper and did not rely solely on the
23 oral allegations or apparent age of the minor.~~

24 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
25 it shall be an affirmative defense that the defendant was a law
26 enforcement officer in the process of conducting an official
27 investigation of a sex-related crime against a minor, or that the
28 defendant was providing individual case treatment as a recognized
29 medical facility or as a psychiatrist or psychologist licensed under
30 Title 18 RCW.

1 (5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
2 the state is not required to establish the identity of the alleged
3 victim.

4 NEW SECTION. **Sec. 2.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.