

# HOUSE BILL REPORT

## HB 3252

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### As Passed Legislature

**Title:** An act relating to prohibiting offenders who enter Alford pleas from receiving a special sex offender sentencing alternative.

**Brief Description:** Prohibiting offenders who enter Alford pleas from receiving a special sex offender sentencing alternative.

**Sponsors:** By Representatives O'Brien, Rodne, Santos, Strow, Green, Simpson, McDonald, Morrell, Ericks, Kilmer, Williams and Hasegawa.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 1/31/06 [DP].

#### Floor Activity:

Passed House: 2/1/06, 97-0.

Passed Senate: 3/2/06, 41-0.

Passed Legislature.

### Brief Summary of Bill

- Prohibits an offender entering a plea of guilty from receiving a Special Sex Offender Sentencing Alternative unless the offender admits to the underlying offense.

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## HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kirby, Strow and Williams.

**Staff:** Jim Morishima (786-7191).

### Background:

#### I. The Special Sex Offender Sentencing Alternative

In 1984, the Legislature created the Special Sex Offender Sentencing Alternative (SSOSA). A SSOSA sentence consists of a suspended standard range sentence, incarceration for up to 12 months, treatment for up to five years, and a term of community custody. An offender is eligible for a SSOSA sentence if: (1) he or she is convicted of a sex offense that is not a serious violent offense or rape in the second degree; (2) he or she has no prior felony sex

offenses; (3) he or she has no prior adult violent offenses within five years of the current offense; (4) the current offense did not cause substantial bodily harm to the victim; (5) he or she has an established relationship or connection to the victim; and (6) his or her standard sentence range includes the possibility of incarceration for less than 11 years.

## II. Alford Pleas

In *North Carolina v. Alford*, 400 U.S. 25 (1970), the United States Supreme Court ruled that the Constitution allows an offender to enter a plea of guilty without admitting guilt for the underlying crime. This type of plea has been come to be known as an "Alford plea."

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### **Summary of Bill:**

In order to be eligible for a SSOSA, an offender who receives the alternative pursuant to a guilty plea must admit he or she committed the underlying offense. A SSOSA is not available to an offender who enters an Alford plea.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 28, 2006.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The changes made by the Legislature in 2004 has addressed the problems with SSOSA. It is hard to imagine that a judge would grant a SSOSA if the offender has not admitted guilt. Therefore, adding the protection in this legislation will certainly not be harmful to the program.

**Testimony Against:** The goals of this bill are already being met by the current law. Trial courts already have the discretion to take into account all of the circumstances of the offender. This bill takes away that discretion. Sometimes offenders do not admit to the crime charged, but do admit to having committed other sex offenses. Only people who are well-off can avail themselves of a SSOSA. A SSOSA is unavailable for the poor who often get haphazard treatment in prison.

**Persons Testifying:** (In support) David Boerner, Sentencing Guidelines Commission.

(With concerns) Myra Owens, Peoples Paralegal.

(Opposed) Thomas Weaver, Washington Association of Criminal Defense Lawyers and Washington Defenders Association.

**Persons Signed In To Testify But Not Testifying:** None.