

1 6261.E AMH JUD H4954.2

2 **ESB 6261** - H COMM AMD **ADOPTED 03/05/92**
3 By Committee on Judiciary

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 9.68A.110 and 1989 c 32 s 9 are each amended to read
8 as follows:

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

18 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or
19 9.68A.080, it is not a defense that the defendant did not know the age
20 of the child depicted in the visual or printed matter: PROVIDED, That
21 it is a defense, which the defendant must prove by a preponderance of
22 the evidence, that at the time of the offense the defendant was not in
23 possession of any facts on the basis of which he or she should
24 reasonably have known that the person depicted was a minor.

25 (3) In a prosecution under RCW 9.68A.040(~~(, 9.68A.050, 9.68A.060,)~~)
26 or 9.68A.090, it is not a defense that the defendant did not know the
27 alleged victim's age: PROVIDED, That it is a defense, which the
28 defendant must prove by a preponderance of the evidence, that at the

1 time of the offense, the defendant (~~reasonably believed the alleged~~
2 ~~victim to be at least eighteen years of age based on declarations by~~
3 ~~the alleged victim~~) made a reasonable bona fide attempt to ascertain
4 the true age of the minor by requiring production of a driver's
5 license, marriage license, birth certificate, or other governmental or
6 educational identification card or paper and did not rely solely on the
7 oral allegations or apparent age of the minor.

8 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
9 it shall be an affirmative defense that the defendant was a law
10 enforcement officer in the process of conducting an official
11 investigation of a sex-related crime against a minor, or that the
12 defendant was providing individual case treatment as a recognized
13 medical facility or as a psychiatrist or psychologist licensed under
14 Title 18 RCW.

15 (5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,
16 the state is not required to establish the identity of the alleged
17 victim."

18 NEW SECTION. Sec. 2. If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected."

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25 On page 1, line 1 of the title, after "children;" strike the
26 remainder of the title and insert "and amending RCW 9.68A.110."