

HB 3277 - H AMD 685

By Representatives Schindler, Orcutt, McCoy, Ahern, Serben,
Woods, Roach and Shabro

SCOPE AND OBJECT 2/1/2006

1 On page 4, after line 19, insert:

2 "NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A
3 RCW to read as follows:

4 (1) In a prosecution for rape in the first degree, the
5 prosecuting attorney shall file a special allegation that the
6 victim of the offense was under twelve years of age at the time of
7 the offense whenever sufficient admissible evidence exists, which,
8 when considered with the most plausible, reasonably foreseeable
9 defense that could be raised under the evidence, would justify a
10 finding by a reasonable and objective fact-finder that the victim
11 was under twelve years of age at the time of the offense.

12 (2) Once a special allegation has been made under this section,
13 the state has the burden to prove beyond a reasonable doubt that
14 the victim was under twelve years of age at the time of the
15 offense. If a jury is had, the jury shall, if it finds the
16 defendant guilty, also find a special verdict as to whether the
17 victim was under the age of twelve at the time of the offense. If
18 no jury is had, the court shall make a finding of fact as to
19 whether the victim was under the age of twelve at the time of the
20 offense.

21 (3) The prosecuting attorney shall not withdraw a special
22 allegation filed under this section without the approval of the
23 court through an order of dismissal of the allegation. The court
24 may not dismiss the special allegation unless it finds that the
25 order is necessary to correct an error in the initial charging
26 decision or that there are evidentiary problems that make proving
27 the special allegation doubtful."

1 Renumber the remaining sections consecutively and correct
2 internal references accordingly.

3 On page 6, line 6, after "greater." insert "If the offense that
4 caused the offender to be sentenced under this section was rape in
5 the first degree and there has been a finding that the victim was
6 under the age of twelve at the time of the offense under section 4
7 of this act, the minimum term shall be life."

8 On page 8, line 25, after "greater." insert "If the offense
9 that caused the offender to be sentenced under this section was
10 rape in the first degree and there has been a finding that the
11 victim was under the age of twelve at the time of the offense under
12 section 4 of this act, the minimum term shall be life."

13 On page 31, line 3, after "through" strike "4 and 6" and insert
14 "5 and 7"

EFFECT: Imposes a life sentence for Rape in the first degree
when a special allegation has been made and proven that the
victim was under the age of twelve at the time of the offense.