



Senate Fiscal Agency
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Senate Bill 236 (Substitute S-1 as reported)
Sponsor: Senator Jeff Irwin
Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

The bill would amend Chapter LXXVI (Rape) of the Michigan Penal Code to modify the definition of "mentally incapacitated".

The Code defines "mentally incapacitated" as a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance, *administered to that person without his or her consent*, or due to any other act committee to that person without his or her consent.

Under the bill, "mentally incapacitated" would mean that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic, alcohol, or other substance or due to any act committee to that person without the person's consent.

MCL 750.520a

BRIEF RATIONALE

According to testimony, prosecutors can hold alleged perpetrators of rape legally accountable in several ways, one being the demonstration that the victim was mentally incapacitated; however, some people believe the Code's definition of "mentally incapacitated" is too narrow, only accounting for instances when a person becomes incapacitated without consent. Accordingly, it has been suggested that the definition be modified to include instances of self-inflicted incapacitation, such as willing consumption of alcohol.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 4-24-23

Fiscal Analyst: Joe Carrasco, Jr.