

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5398 (Substitute S-1 as reported)
Sponsor: Representative Ruth Johnson
House Committee: Criminal Justice
Senate Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to specify that it would not be a defense to any crime that the defendant was, at the time of the offense, under the influence of or impaired by a voluntarily and knowingly consumed alcoholic liquor; drug, including a controlled substance; other substance or compound; or combination of alcoholic liquor, drug, or other substance or compound. ("Consumed" would mean to have eaten, drunk, ingested, inhaled, injected, or topically applied, or to have performed any combination of those actions, or otherwise introduced into the body.)

It would be an affirmative defense to a specific intent crime, for which the defendant would have the burden of proof by a preponderance of the evidence, that he or she voluntarily consumed a legally obtained and properly used medication or other substance and did not know and reasonably should not have known that he or she would become intoxicated or impaired. (An affirmative defense is evidence that outweighs the evidence against the defense.)

Proposed MCL 768.37

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government. To the extent that the bill would increase the number of convicted offenders, or lengths of sentence, it could potentially increase State and local corrections costs. Local units incur the cost of incarceration in a local facility which may vary by county from \$27 to \$65 per day. The State incurs the cost of felony probation at \$4.38 per day as well as the cost of incarceration in a State facility at an average annual cost of \$25,000.

Date Completed: 4-26-02

Fiscal Analyst: Bill Bowerman
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