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BILL



ANALYSIS

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House Bill 4713 (Substitute S-2 as reported)  
Sponsor: Representative Edward McBroom  
House Committee: Oversight and Ethics  
Senate Committee: Judiciary

### **CONTENT**

The bill would amend Chapter 1 of the Revised Statutes of 1846, titled "Of the statutes", to specify the following:

- A person would not be guilty of a criminal offense committed on or after January 1, 2016, unless liability were based on an act or an omission to perform an act that the person was capable of performing, and the person had the requisite degree of culpability for each element of the offense.
- Culpability would not be required for a person to be guilty of an offense if the underlying statute plainly imposed strict liability.
- An element of a criminal offense would have to be established through a showing of intent, knowledge, or recklessness if the statute defining the element neither specified culpability nor imposed strict liability.
- If a statute provided that a particular mental state sufficed to establish an element of the offense, then a mental state requiring a higher degree of culpability would be sufficient to satisfy that element.
- It would not be a defense to a crime that the defendant was under the influence of an alcoholic liquor, drug, or other substance or compound, except under certain circumstances.
- If a statute defining an offense prescribed a culpable mental state but did not specify the element to which it applied, the prescribed mental state would apply to each element that required a culpable mental state.

The bill states that its provisions would not apply to crimes established under the Michigan Vehicle Code, the Public Health Code, the Identity Theft Protection Act, the Michigan Penal Code, and Chapter 752 of the Michigan Compiled Laws.

(Chapter 752 contains the Health Care False Claims Act and a number of other Public Acts on a variety of subjects. Most of the Public Acts in Chapter 752 impose criminal penalties for particular offenses.)

The bill would apply only to crimes committed on or after January 1, 2016.

Proposed MCL 8.9

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill would have a positive fiscal impact on State and local government, although the magnitude of the impact is unknown. It cannot be known how many future statutes will be written without a culpable mental state standard. A decrease in misdemeanor and felony prosecutions and convictions could free up resource demands on local court systems,

community supervision, and correctional facilities. For any decrease in prison intakes, in the short term, the marginal savings to State government would be approximately \$3,764 per prisoner per year. In the long term, if the reduced intake of prisoners reduced the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government would be approximately \$34,550 per prisoner per year. Any associated decrease in fine revenue would reduce revenue to public libraries.

Date Completed: 12-10-15

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.