



Senate Fiscal Agency  
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## BILL ANALYSIS



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Senate Bill 236 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Jeff Irwin

Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 5-3-23

**CONTENT**

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

Under the Code, "mentally incapacitated" means that 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.

The bill would take effect 90 days after its enactment.

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.

Fiscal Analyst: Joe Carrasco, Jr.

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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.