

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 5398 (Substitute H-3 as passed by the House)  
Sponsor: Representative Ruth Johnson  
House Committee: Criminal Justice  
Senate Committee: Judiciary

Date Completed: 4-23-02

### **CONTENT**

The bill would amend Chapter VIII (Trials) of the Code of Criminal Procedure to specify that it would not be a defense to any crime that the individual who allegedly committed the crime 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, however, that the individual 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.

Fiscal Analyst: Bill Bowerman  
Bethany Wicksall

S0102\s5398sa

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.