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House Bill 4202 (as reported without amendment)
Sponsor: Representative Laurie Pohutsky
House Committee: Criminal Justice
Senate Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

The bill would amend Chapter LXXVI (Rape) of the Penal Code to delete a provision specifying that a person may not be convicted of Criminal Sexual Conduct (CSC) solely because his or her legal spouse is mentally incapacitated.

Under the Code, a person may be charged and convicted under Sections 520b to 520g even though the victim is his or her legal spouse. (Generally, Sections 520b to 520g prohibit and penalize CSC in the first to fourth degrees.) The Code specifies that a person may not be charged or convicted solely because his or her legal spouse is under the age of 16, mentally incapable, or mentally incapacitated. Instead, under the bill, a person could not be charged or convicted solely because his or her legal spouse was under the age of 16 or mentally incapable.

("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 committed upon that person without his or her consent.)

MCL 750.520I

BRIEF RATIONALE

The Michigan Penal Code prohibits marital rape; however, it provides exceptions in the case that a person's legal spouse is incapacitated because of being unwillingly under the influence of any intoxicating substance. According to testimony, people have exploited this exception by drugging their spouses and having sex with them in a manner that would otherwise be considered CSC or rape. It has been suggested that this exception be eliminated.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

The bill is a reintroduction of House Bill 4699 of the 2021-2022 Legislative Session, which passed the House but received no further action in the Senate.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have an indeterminate fiscal impact upon the local courts. The fiscal impact would be based upon any resulting increase in court caseloads because of the bill.

Date Completed: 5-22-23

Fiscal Analyst: Joe Carrasco, Jr.
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[floor/hb4202](#)

Bill Analysis @ www.senate.michigan.gov/sfa

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