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Senate Bills 1095 and 1096 (as introduced 11-13-24)

Sponsor: Senator Sylvia Santana

Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 12-3-24

CONTENT

Senate Bill 1095 would amend the Michigan Penal Code do the following:

- **Prohibit a person from tampering with a body-camera recording that could be used in an official proceeding.**
- **Prohibit a person from knowingly and intentionally failing to activate a body-worn camera used for law enforcement purposes if the failure interfered with a present or future official proceeding or internal law enforcement investigation.**
- **Prohibit a person from knowingly and intentionally deactivating a body-worn camera used for law enforcement purposes while using excessive force.**
- **Prescribe misdemeanor and felony penalties for violations of the bill's provisions.**

Senate Bill 1096 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felony penalty proposed by Senate Bill 1095 for intentionally deactivating a body-worn camera used for law enforcement purposes while using excessive force. A violation would be a Class G felony against a person punishable by up to two years' imprisonment.

Senate Bill 1096 is tie-barred to Senate Bill 1095. Each bill would take effect 90 days after its enactment.

Senate Bill 1095 is described in greater detail below.

Senate Bill 1095

The Michigan Penal Code prohibits a person from knowingly and intentionally removing, altering, concealing, destroying, or otherwise tampering with evidence that could be offered in a present or future official proceeding. A violation is a felony punishable by up to four years' imprisonment or a maximum fine of \$5,000, or both. If the violation is committed in a criminal case for which the maximum imprisonment is more than 10 years or the violation is punishable by life in prison or any term of years, the person is guilty of a felony punishable by up to 10 years' imprisonment or a maximum fine of \$20,000, or both.

("Official proceeding" means a proceeding heard before a legislative, judicial, administrative, or other governmental agency or official authorized to hear evidence under oath including a referee, prosecuting attorney, hearing examiner, commissioner, notary, or other person taking testimony or deposition in that proceeding.)

The bill would modify the prohibition described above to specify that it would include altering, concealing, destroying, or otherwise tampering with a digital image or video or audio recording from a body-worn camera used for law enforcement purposes.

Additionally, the bill would prohibit a person from knowingly and intentionally failing to activate a body-worn camera used for law enforcement purposes if the failure interfered with a present or future official proceeding or internal law enforcement investigation. A violation would be a misdemeanor punishable by up to 90 days' imprisonment or a fine of \$500, or both.

Finally, the bill would prohibit a person would from knowingly and intentionally deactivating a body-worn camera used for law enforcement purposes while using excessive force. A violation would be a felony punishable by up to two years' imprisonment or a maximum fine of \$1,000, or both.

MCL 750.483a (S.B. 1095)
777.16x (S.B. 1096)

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

Senate Bill 1095

The bill's criminal penalties could have a negative fiscal impact on the State and local government. Violations of the bill would be punishable as misdemeanors and felonies of different severity. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Misdemeanor convictions could increase county jail and local probation supervision costs, which vary by jurisdiction and are thus indeterminate. Based on 2023 data, the average cost to State government for felony probation supervision is approximately \$4,600 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$48,700. Per diem rates range from \$100 to \$431 per day (average per diem is \$135), depending on the security level of the facility. Additionally, any associated fine revenue would increase funding to public libraries.

Senate Bill 1096

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

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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.