Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4047 (Substitute S-1 as reported)
House Bill 4048 (as reported without amendment)
Sponsor: Representative Matt Bierlein (H.B. 4047)
        Representative Penelope Tsernoglou (H.B. 4048)
House Committee: Judiciary
Senate Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

House Bill 4047 (S-1) would enact the "Protection from Intimate Deep Fakes Act" to do the following:

-- Prescribe a misdemeanor penalty punishable by up to one year's imprisonment or maximum fine of $3,000, or both, for an individual who intentionally created or disseminated an intimate deep fake causing harm.
-- Prescribe a felony penalty punishable by up to three years' imprisonment or a maximum fine of $5,000, or both, for subsequent offenses or online platform distribution.
-- Allow an individual who was depicted in a nonconsensual intimate deep fake to bring a civil action for the creation or dissemination of that deep fake in the county of the individual's residence or the county where the deep fake was created or stored.
-- Require a court to allow for the confidential filing of a civil action.
-- Allow a court to issue a restraining order or permanent injunction that could award a plaintiff a daily maximum civil fine of $1,000 for a violation of such an order.
-- Prescribe the economic and noneconomic damages a court could award in a civil action including profits made from the deep fake and court costs.
-- Exempt specific criminal investigations, medical treatments, and legal proceedings from penalties and liability under the Act.
-- Exempt internet service providers, telecom networks, or educational or library systems providing access to content created by another person and a provider or developer of the technology used in the creation of a deep fake from liability under the Act.

House Bill 4048 would include in the sentencing guidelines of the Code of Criminal Procedure the dissemination of an intimate deep fake with aggravating factors as proposed under House Bill 4047 (S-1) as a Class F felony against a person with a maximum of three years' imprisonment.

MCL 777.17b (H.B. 4048)

BRIEF RATIONALE

Generally, a deep fake is a believably realistic but fake video, image, or audio clip created by artificial intelligence (AI) or digital manipulation tools. As AI and digital manipulation tools become increasingly accessible, some are worried that deep fakes will be created more often. According to testimony, deep fakes can cause significant emotional and financial harm to depicted individuals who have not consented to the creation of the deep fake's content, such as in the creation of deepfake pornography. It has been suggested that the creation of deep fakes featuring sexual content that could cause harm to a depicted individual be prohibited.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

<u>House Bill 4047 (S-1)</u>

The bill would have an indeterminate fiscal impact on local courts due to the potential for increased civil filing fees, civil fines, and hearing costs related to increased criminal and civil filings. Filing fees range from $25 to $600 and are distributed to several different State funds, including the State Court Fund, the Court Equity Fund, the Court Fee Fund, and the State General Fund. The fines under the bill would support public and county law libraries and the Justice System Fund. It is not know the degree to which criminal and civil filings would increase under the bill, how much increased workload would be added to local courts, and how much fee and fine revenue would be generated.

<u>House Bill 4048</u>

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. The bill would have no fiscal impact on the state or local court systems.

Date Completed: 8-12-25   Fiscal Analyst: Joe Carrasco, Jr.
                                                              Michael Siracuse