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BILL ANALYSIS

Telephone: (517) 373-5383  
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House Bill 4320 (Substitute H-1 as reported without amendment)  
House Bill 4387 (as reported without amendment)  
Sponsor: Representative Sharon MacDonell  
House Committee: Families, Children and Seniors  
Senate Committee: Civil Rights, Judiciary, and Public Safety

### **CONTENT**

House Bill 4320 (H-1) would amend the Michigan Penal Code to prohibit a person from intentionally taking actions against a vulnerable adult in a way that caused the vulnerable adult to provide that person, or any other person, sexually explicit visual material. The bill would prescribe misdemeanor and felony penalties for a violation.

House Bill 4387 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felony proposed by House Bill 4320 (H-1).

House Bill 4387 is tie-barred to House Bill 4320, and each bill would take effect 90 days after its enactment.

Proposed MCL 750.145h (H.B. 4320)  
MCL 777.16g (H.B. 4387)

### **BRIEF RATIONALE**

Generally, an individual can be considered a vulnerable adult if the individual is at least 18 years old and because of age, illness, or disability requires supervision or personal care. According to testimony, perpetrators of sex-related offenses commonly know that vulnerable adults are not legally protected against sexual abuse in the form of coercion for a sexually explicit image. Accordingly, it has been suggested that this type of coercion of a vulnerable adult be prohibited.

Legislative Analyst: Tyler P. VanHuyse

### **FISCAL IMPACT**

#### House Bill 4320 (H-1)

The bill could have a negative fiscal impact on the State and local governments. Violations of its proposed criminal penalties 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. Based on 2022 data, the average cost to State government for felony probation supervision is approximately \$4,800 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 \$47,500. Per diem rates for housing a prisoner in a State correctional facility range from \$98 to \$192 per day, depending on the security level of the facility. Additionally, any associated fine revenue would increase funding to public libraries. Any fiscal impact upon State or local courts is indeterminate.

House Bill 4387

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 bill's additions to the guidelines 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.

Date Completed: 11-6-23

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