

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 13-0273  
**Prime Sponsor(s):** Rep. Foote; Levy  
 Sen. Steadman

**Date:** February 15, 2013  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**TITLE:** CONCERNING CRIMES AGAINST PREGNANT WOMEN.

<b>Fiscal Impact Summary</b>	<b>FY 2013-14</b>	<b>FY 2014-2015</b>	<b>FY 2015-2016</b>
<b>State Revenue</b>			
Cash Funds			
Fines Collection Cash Fund	<\$5,000	<\$5,000	<\$5,000
<b>State Expenditures</b>			
General Fund		\$102,414	\$70,878
<b>FTE Position Change</b>			
<b>Effective Date:</b> The bill takes effect and applies to offenses committed on or after July 1, 2013.			
<b>Appropriation Summary for FY 2013-2014:</b> See State Appropriations section.			
<b>Local Government Impact:</b> See Local Government Impact section.			

**Summary of Legislation**

This bill creates a new article in the criminal code for offenses against pregnant women. The bill creates new offenses for unlawful termination of pregnancy in the first, second, third, and fourth degrees; vehicular unlawful termination of pregnancy; aggravated vehicular unlawful termination of pregnancy; and careless driving resulting in unlawful termination of a pregnancy. Termination of pregnancy resulting from medical care consented to by the woman is exempted from prosecution. The bill also modifies several provisions of current law by:

- repealing criminal abortion statutes;
- increasing the penalty for unlawful termination of pregnancy in the first degree from a class 4 felony to either a class 3 or 2 felony (depending on the circumstances); and
- clarifying that the court may impose consecutive sentences for offenses against pregnant women.

**State Revenue**

Beginning in FY 2013-14, state revenue is anticipated to increase by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. Under current law, individuals convicted of felonies and misdemeanors may be required to pay a fine. Depending on

the offense committed, the law provides a range of fines that may be assessed by the court. For the felony classes in the bill, fines range from \$1,000 to \$1 million, and the class 1 misdemeanor fine range is \$500 to \$5,000. To the extent that this court imposes fines on persons convicted under this bill, state revenue will increase. As there have been no convictions of criminal abortion in the past five years, this fiscal note assumes there will be no offset from repealing these statutes.

**State Expenditures**

Due to the time required to adjudicate new cases, this bill is not anticipated to increase state expenditures in FY 2013-14. State expenditures will increase by \$102,414 in FY 2014-15 and \$70,878 in FY 2015-16. These costs will be paid from the General Fund and are based on the assumptions shown in Table 1.

<b>Table 1. Assumptions on Convictions Under House Bill 13-1154</b>			
<b>Crime</b>	<b>Old Sentence</b>	<b>New Sentence</b>	<b>Number Affected</b>
Unlawful termination, 1st degree (when the woman dies as a result of the unlawful termination of the pregnancy)	Class 4 felony	Class 2 felony	1 every 5 years
Unlawful termination, 1st degree (with intent to terminate the pregnancy)	Class 4 felony	Class 3 felony	1 every 5 years
Unlawful termination, 2nd degree (with intent to terminate the pregnancy)	-	Class 4 felony	1 every 5 years
Unlawful termination, 2nd degree (when the act was committed in the sudden heat of passion and provoked by the victim)	-	Class 6 felony	1 every 5 years
Unlawful termination, 3rd degree	-	Class 5 felony	1 every 5 years
Unlawful termination, 4th degree (when unlawful termination occurs during the commission or attempted commission of certain crimes, such as murder, assault, robbery, or kidnapping)	-	Class 6 felony	1 per year
Unlawful termination, 4th degree (recklessly caused)	-	Class 1 misdemeanor	1 per year
Aggravated vehicular termination	-	Class 4 felony	1 every 5 years
Vehicular termination	-	Class 5 felony	1 every 5 years
Careless driving, unlawful termination	-	Class 1 misdemeanor	65 per year
Criminal abortion	Class 4 felony	-	0

**Judicial Department.** The new crimes created in the bill will not necessarily create new court filings, rather, persons charged with crimes such as vehicular assault or assault will be subject to additional charges as set forth in the bill. The expected increase in the courts' workload is minimal and can be absorbed within existing appropriations.

**Office of the State Public Defender (OSPD).** The OSPD may experience an increase in workload due to new case filings and increases in the time to litigate cases. The number of case filings associated with crimes created under the bill is expected to be low and not require an increase in appropriations.

**Office of the Alternate Defense Counsel (ADC).** The ADC represents clients when the OSPD has a conflict and, therefore, may incur costs under the bill. These costs have not been estimated but are anticipated to be minimal.

**Department of Corrections.** Beginning in FY 2014-15, the Department of Corrections will experience an increase in costs resulting from changes in the length of prison sentences and an increased number of offenders admitted to the system in each year. Current law prohibits the General Assembly from passing any bill to increase periods of imprisonment in state correctional facilities without appropriating an amount sufficient to cover the increased capital construction and operating costs of the bill in each of the first five fiscal years. However, current law also allows the DOC to place offenders classified as medium custody and below in private contract prisons, for which no state capital construction costs are incurred. Offenders sentenced under this bill to DOC may be placed in either a state-run or a private contract prison, depending on several factors. Any offenders that *must* be housed in a state-run prison will likely require a shift of other inmates in that facility to private contract prisons. Therefore, this fiscal note assumes that the impact of this bill will be accommodated through the use of private contract prisons, and that no new capital construction funds are necessary.

Offenders placed in a private contract prison cost the state about \$57.03 per offender per day, including the current daily rate of \$52.69 and an estimated \$4.34 per offender per day for medical care provided by the DOC. Table 2 shows the estimated cost of the bill over the next five fiscal years.

<b>Fiscal Year</b>	<b>Inmate Bed Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
<b>FY 2013-14</b>	0.0	\$0	\$0	\$0
<b>FY 2014-15</b>	4.9	\$0	\$102,414	\$102,414
<b>FY 2015-16</b>	3.4	\$0	\$70,878	\$70,878
<b>FY 2016-17</b>	2.00	\$0	\$40,799	\$40,799
<b>FY 2017-18</b>	2.0	\$0	\$40,799	\$40,799
<b>Total</b>		\$0	<b>\$254,890</b>	<b>\$254,890</b>

### **Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. House Bill 13-1154 changes the classification for certain crimes and adds new crimes. The assumed prevalence of this crime is shown in Table 1 on page 2 of this fiscal note. For existing crimes, this analysis assumes that the current prevalence will remain consistent into the future.

### **Local Government Impact**

This bill impacts local governments by creating two new crimes: unlawful termination of pregnancy in the fourth degree for a person who recklessly causes the unlawful termination of the pregnancy of another person and careless driving resulting in unlawful termination of pregnancy. Both offenses are a class 1 misdemeanor. The penalty for a class 1 misdemeanor is 6 to 18 months in a county jail, a fine of \$500 to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$50.44 to house state inmates. It is assumed that the impact of this bill will be minimal.

### **State Appropriations**

The Department of Corrections requires the five-year costs of \$254,890, General Fund, as detailed in Table 2.

### **Departments Contacted**

Corrections	Counties
District Attorneys	Judicial
Local Affairs	Municipalities
Public Health and Environment	Revenue