

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 14-0491	Date: May 21, 2014
Prime Sponsor(s): Rep. Humphrey Sen. Renfroe	Bill Status: Postponed Indefinitely
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SHORT TITLE: PROTECT HUMAN LIFE AT CONCEPTION

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
Cash Funds	<\$5,000	<\$5,000
State Expenditures	<u>\$60,267</u>	<u>\$95,726</u>
General Fund	26,657	53,859
Federal Funds	26,656	32,375
Centrally Appropriated Costs**	6,954	9,492
FTE Position Change	0.8 FTE	1.0 FTE
Appropriation Required: \$26,657 - Department of Health Care Policy and Financing (FY 2014-15)		

* This summary shows changes from current law under the bill for each fiscal year.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

This bill makes it a class 3 felony to knowingly terminate a pregnancy. The bill provides for the following exceptions:

- when a licensed physician terminates a pregnancy to prevent the death of the pregnant woman, if he or she makes reasonable medical efforts to preserve the life of the woman and her unborn child; or
- when a licensed physician provides medical care to the pregnant woman which results in the accidental or unintentional injury or death of her unborn child.

The bill also clarifies that a pregnant woman upon whom an abortion is performed or attempted is not subject to a criminal penalty and that the sale and use of contraception is not prohibited by the bill. A conviction under House Bill 14-1133 constitutes unprofessional conduct for the purposes of physician licensing.

Background

According to the most recent statistics from the Centers for Disease Control and Prevention, there were 11,210 abortions performed in Colorado in 2010. This number is about 3.3 percent lower than the 11,598 abortions performed in Colorado in 2009. Current federal law requires the state Medicaid program to cover abortion in cases of rape, incest, or to save the life of the pregnant woman.

State Revenue

Beginning in FY 2014-15, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 3 felony is \$3,000 to \$750,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

State Expenditures

The bill increases state expenditures by \$60,267 and 0.8 FTE in FY 2014-15 and \$95,726 and 1.0 FTE in FY 2015-16.

Assumptions. The fiscal note assumes that less than 1 percent of abortions will continue to be performed illegally under HB14-1133 and that there will be one new criminal conviction under the bill per year. The state will also be required to submit a waiver to the federal Centers for Medicare and Medicaid Services to avoid non-compliance with federal law regarding the provision of abortion services.

Department of Health Care Policy and Financing. As shown in Table 1, staff is needed in the Department of Health Care Policy and Financing to prepare and, if approved, administer the waiver. Costs assume 1.0 FTE will be hired on September 1, 2014, and are adjusted in the first year to account for the General Fund pay date shift. Standard operating and capital outlay costs are included.

Table 1. Expenditures for the Department of Health Care Policy and Financing Under HB14-1133		
Cost Components	FY 2014-15	FY 2015-16
Personal Services	\$47,850	\$63,800
FTE	0.8	1.0
Operating Expenses and Capital Outlay Costs	5,463	950
Centrally Appropriated Costs*	6,954	9,492
TOTAL	\$60,267	\$74,242

* Centrally appropriated costs are not included in the bill's appropriation.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB14-1133*		
Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$3,631	\$4,547
Supplemental Employee Retirement Payments	3,323	4,945
TOTAL	\$6,954	\$9,492

*More information is available at: <http://colorado.gov/fiscalnotes>

Five-Year Fiscal Impact on Correctional Facilities

This bill is anticipated to increase state General Fund expenditures by an estimated \$21,484 in FY 2015-16 for the Department of Corrections (DOC). This increase assumes one offender will be convicted of a class 3 felony each year and that each offender will have an average length of stay of 64.6 months.

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 \$58.86 per offender per day, including the current daily rate of \$53.74 and an estimated \$5.12 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. Table 3 shows the estimated cost of the bill over the next five fiscal years.

Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2014-15	0.0	\$0	\$0	\$0
FY 2015-16	1.0	\$0	\$21,484	\$21,484
FY 2016-17	2.0	\$0	\$42,968	\$42,968
FY 2017-18	3.0	\$0	\$64,452	\$64,452
FY 2018-19	4.0	\$0	\$85,936	\$85,936
Total			\$214,839	\$214,839

Judicial Department. This bill will create additional case filings for trial courts beginning in FY 2014-15. The fiscal note assumes that the workload increase is minor and can be accomplished within existing appropriations.

Other Judicial Branch agencies. To the extent that a defendant is indigent, he or she may qualify for the appointment of counsel from either the Office of the State Public Defender or the Office of the Alternate Defense Counsel. The fiscal note assumes any workload increase will be minimal and can be accomplished within existing appropriations.

Department of Regulatory Agencies (DORA). To the extent that licensed physicians perform illegal abortions, additional complaints may be processed by the DORA. Additionally, DORA will need to update rules regarding unprofessional conduct for physicians. This increase in workload is anticipated to be minimal and does not require an increase in appropriations.

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. There are no other offenses that compare to the crimes created by HB14-1133. The fiscal note assumes that more than 99 percent of licensed physicians will comply with state laws and that only one person will be convicted of an offense under the bill per year. No gender or minority data is available.

Effective Date

The bill was postponed indefinitely by the House Judiciary Committee on March 11, 2014.

State Appropriations

For FY 2014-15, the Department of Health Care Policy and Financing requires an appropriation of \$26,657 General Fund and \$26,656 federal funds and an allocation of 0.8 FTE.

The Department of Corrections requires the 5-year appropriations shown in Table 3, above.

State and Local Government Contacts

Corrections
Health Care Policy and Financing
Human Services
Public Health and Environment

District Attorneys
Higher Education
Judicial
Regulatory Agencies