

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 15-0217  
**Prime Sponsor(s):** Sen. Steadman

**Date:** January 14, 2015  
**Bill Status:** Senate SVMA  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** MARRIAGES BY INDIVIDUALS IN CIVIL UNIONS

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	Minimal increase. See State Revenue section.	
State Expenditures	Minimal workload increase. See State Expenditures section.	
FTE Position Change		
<b>Appropriation Required:</b> None.		

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

**Summary of Legislation**

This bill amends state law concerning civil unions and marriage to do the following:

- allow persons in a valid current civil union to marry each other without having to first dissolve the civil union;
- specify that the "Uniform Dissolution of Marriage" act applies to civil unions that are merged into marriage by operation of law;
- specifies that time spent in a civil union prior to it being converted to marriage is included when determining the duration of such a marriage during dissolution proceedings;
- apply state bigamy laws to persons currently in a civil union who enter into marriage with someone other than the civil union partner or persons who enter into another civil union; and
- require the Department of Public Health and Environment to update the marriage application form to capture certain information about any prior civil unions entered into or merged into marriage.

**Background**

**Civil unions and same-sex marriage.** Civil unions, including those of same-sex couples, have been legal in Colorado since May 2013, following the passage of SB13-011. Recent court decisions in several cases arising in the United States 10th Circuit Court of Appeals ultimately resulted in Colorado's ban on same-sex marriage being declared unconstitutional. Beginning in October 2014, county clerks in Colorado began issuing marriage licenses to same-sex couples.

**Bigamy.** Under current law, bigamy is a class 6 felony. There have been six cases of bigamy prosecuted in Colorado over the last three years (two cases per year, on average). In these cases, there have been three convictions, with none of these offenders sentenced to the custody of the Department of Corrections.

## **State Revenue**

Beginning in FY 2015-16, this bill may increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Branch, by expanding the offense of bigamy to cover persons in civil unions entering into multiple legal relationships. The fine penalty for a class 6 felony is between \$1,000 and \$100,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, due to the relatively small number of persons in civil unions and the low number of convictions for bigamy in recent years, the fiscal note assumes that any revenue generated will be minimal.

## **State Expenditures**

Overall, this bill may increase state expenditures and workload beginning in FY 2015-16 for the Department of Corrections, the Judicial Department, and the Department of Public Health and Environment, as discussed below.

**Assumptions.** The fiscal note assumes that one person every five years will be convicted of a class 6 felony under the expanded criteria for bigamy involving persons in civil unions. However, due to the disposition of existing cases, this analysis assumes future offenders will not be sentenced to the Department of Corrections.

**Department of Corrections.** If a person is convicted and sentenced to the Department of Corrections, costs will increase. Offenders placed in a private contract prison cost the state about \$60.46 per offender per day, including the current daily rate of \$55.08 and an estimated \$5.38 per offender per day for medical care provided by the Department of Corrections. Because it is not possible to determine the timing of any convictions or the disposition of the offender, this analysis assumes the Department of Corrections will request any additional appropriations required in the future through the annual budget process.

**Judicial Department.** Under this bill, workload for trial courts may increase by a minimal amount to hear any cases involving bigamy for persons who are in a civil union. To the extent that any persons are convicted of an offense and sentenced to probation, costs may also increase. If a person accused of a crime under the bill is indigent, costs for representation may also increase for the Office of the State Public Defender or the Office of the Alternate Defense Counsel. The fiscal note assumes any increase in workload or costs is minimal and can be accommodated within existing appropriations.

**Department of Public Health and Environment.** The Department of Public Health and Environment will have a minimal increase in workload to redesign marriage license application forms to capture information required by the bill. No changes in appropriations are required to accomplish this work.

## **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. SB 15-016 creates a new factual basis for the offense of bigamy by adding

persons involved in a civil union. Over the previous three years, there have been three convictions for bigamy involving persons in opposite-sex marriages, with two males and one female being convicted. By applying bigamy statutes to the few thousand persons in civil unions in the state, the fiscal note assumes there may be one additional offense every five years. Information about the minority status of victims is not currently available.

### **Local Government Impact**

The bill may increase costs for county clerks and recorders to adjust various marriage application forms. These costs are estimated to be minimal.

### **TABOR Impact**

To the extent the bill increases state revenue from fines, it will increase the amount of revenue required to be refunded under TABOR for FY 2015-16. TABOR refunds are paid from the General Fund in the year following the excess collections.

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, except that section 8 of the bill takes effect, and applies to offenses committed on or after, July 1, 2015.

### **State and Local Government Contacts**

Public Health and Environment  
Law  
Counties

Judicial  
Personnel  
County Clerks

Corrections  
Revenue  
District Attorneys