



**Colorado  
Legislative  
Council  
Staff**

**HB16-1113**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0061  
**Prime Sponsor(s):** Rep. Humphrey  
Sen. Lundberg

**Date:** January 29, 2016  
**Bill Status:** House Health, Insurance, and  
Environment  
**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** PROTECT HUMAN LIFE AT CONCEPTION

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures		
General Fund		\$21,864
<b>Appropriation Required:</b> \$87,456 - Department of Corrections (FY 2017-18 - FY 2020-21).		
<b>Future Year Impacts:</b> Ongoing state expenditures increase.		

**Summary of Legislation**

This bill prohibits licensed physicians from performing abortions except:

- when making reasonable medical efforts to preserve both the life of the woman and her unborn child, and an abortion is necessary to preserve the life of the woman; or
- when the physician provides medical treatment to a woman that results in the accidental injury or death of the unborn child.

Offenses under the bill are punishable as a class 1 felony, and a conviction constitutes unprofessional conduct for the purposes of physician licensing.

**Background**

Federal law requires that state health programs receiving federal funding provide coverage for abortion services if the pregnancy results from rape or incest or if continuing the pregnancy would put the woman's life in danger. Colorado's Medicaid and Children's Health Plan Plus (CHP+) programs are subject to these requirements.

According to the Guttmacher Institute, there were approximately 14,710 abortions performed in Colorado in 2011, the most recent year for which data were available.

**State Expenditures**

Starting in FY 2017-18, this bill may increase state General Fund expenditures by \$21,864 in the Department of Corrections. The bill may also increase workload and state expenditures in the Judicial Department, the Department of Regulatory Agencies, and the Department of Health Care Policy and Financing.

**Five-Year Fiscal Impact on Correctional Facilities**

This bill is anticipated to increase state General Fund expenditures by an estimated \$21,864 per year beginning in FY 2017-18 for the Department of Corrections (DOC). This increase assumes at least one offender will be sentenced to prison for a class 1 felony every five years and have an average length of stay of 480 months. Because legal abortions are currently performed by licensed physicians, the fiscal note assumes a high rate of compliance with the provisions of the bill. Should additional convictions occur, however, the fiscal note assumes the DOC will request additional appropriations through the annual budget process.

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 \$59.90 per offender per day, including the current daily rate of \$56.02 and an estimated \$3.88 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 1 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>
FY 2016-17	0.0	\$0	\$0	\$0
FY 2017-18	1.0	\$0	\$21,864	\$21,864
FY 2018-19	1.0	\$0	\$21,864	\$21,864
FY 2019-20	1.0	\$0	\$21,864	\$21,864
FY 2020-21	1.0	\$0	\$21,864	\$21,864
<b>Total</b>				<b>\$87,456</b>

**Judicial Department.** The bill is anticipated to result in at least one new case filing every five years against licensed physicians, which will increase workload for the trial courts. The expected increase in the courts' workload is minimal and can be accomplished within existing appropriations.

**Office of the State Public Defender (OSPD).** In the unlikely event that a licensed physician would be determined to be indigent, workload and costs for the OSPD may increase in order to provide representation. To the extent this occurs, this analysis assumes the OSPD will request additional appropriations through the annual budget process.

**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 similar to those described for the OSPD.

**Department of Regulatory Agencies.** Under the bill, a conviction for providing unauthorized abortion services constitutes unprofessional conduct by a licensed physician. The bill may result in additional complaints or disciplinary procedures for the department. This increase in workload is anticipated to be minimal and will not require an increase in appropriations.

**Department of Healthcare Policy and Financing.** As described above, Colorado's Medicaid and Children's Health Plan Plus (CHP+) programs are subject to federal requirements mandating that a state provide coverage for abortion services if the pregnancy results from rape or incest or if continuing the pregnancy would put the woman's life in danger. To remain compliant with federal law, the department may be required to transport a woman pregnant as a result of rape or incest to another state to obtain an abortion. As it is unknown how often this will occur, the fiscal impact cannot be determined. The department reports no cases in the last three fiscal years of a woman seeking a Medicaid-subsidized abortion for a pregnancy that resulted from rape or incest; therefore, the fiscal note assumes such instances are rare, and that the department will 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. The behavior prohibited under HB16-1113 is currently legal. For this reason, no information about the likely offenders or victims is available. Due to the professional nature of providers performing abortion services, the fiscal note assumes a high rate of compliance with the provisions of this bill.

## **Local Government Impact**

This bill will increase workload and costs for district attorneys that investigate and prosecute offenses under the bill. Because legal abortions are currently performed by licensed physicians, the fiscal note assumes a high rate of compliance with the provisions of the bill and assumes that any increases in workload for district attorneys will be minimal.

## Effective Date

The bill takes effect July 1, 2016, and applies to offenses committed on or after this date.

## State Appropriations

The bill requires the four-year appropriations to the Department of Corrections of \$87,456 beginning in FY 2017-18, shown in the table above.

## State and Local Government Contacts

District Attorneys  
Health Care Policy & Financing  
Office of Information Technology  
Regulatory Agencies

Corrections  
Judicial  
Public Health & Environment