



**Colorado
Legislative
Council
Staff**

HB16-1203

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 16-0219
Prime Sponsor(s): Rep. Neville P.

Date: August 4, 2016
Bill Status: Postponed Indefinitely
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BILL TOPIC: WOMEN'S HEALTH PROTECTION ACT

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	<u>at least \$231,000</u>	<u>at least \$49,000</u>
General Fund	231,000	49,000
Cash Funds	<5,000	<5,000
State Expenditures	<u>\$268,000</u>	<u>\$257,683</u>
General Fund	235,887	223,275
Centrally Appropriated Costs	32,113	34,408
TABOR Impact	\$0	at least \$49,000
FTE Position Change	1.8 FTE	2.0 FTE
Appropriation Required: \$235,887 - Department of Law (FY 2016-17).		
Future Year Impacts: Ongoing state revenue and expenditure increase.		

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

The bill requires all abortion clinics in the state to be licensed by the Attorney General by January 1, 2017. Abortion clinics are defined as any non-hospital facility that performs five or more abortions in the first trimester of pregnancy in any month or any abortions in the second or third trimesters. Licenses are valid for one year and must be renewed by the Attorney General for an abortion clinic to legally operate in the state. The bill also requires the Attorney General to conduct an on-site visit to each facility prior to initial licensure or license renewals and to establish procedures for conducting inspections. The Attorney General must also promulgate rules and standards concerning:

- abortion clinic personnel, including that a physician with admitting privileges at an accredited hospital within 30 miles of the clinic be employed by the clinic and present on days when abortions are performed;
- the abortion clinic's physical facilities;
- supplies and equipment standards;

- abortion procedures, including use of anesthesia and vital signs monitoring;
- medical screening and evaluations for each abortion clinic patient;
- minimum recovery room and follow-up care standards;
- minimum incident reporting standards; and
- the treatment of personally identifiable patient information.

The bill establishes two unclassified misdemeanors and civil penalties for any individuals who violate the requirements of the bill. The Attorney General may pursue injunctive relief in the courts against anyone in violation of the terms of the bill. The bill provides related definitions and licensure fees.

Background

Under current law, the Health Facilities and Emergency Medical Services Division within the Department of Public Health and Environment licenses most health facilities in the state, but does not differentiate facilities by the types of medical procedures performed. The Attorney General does not currently license health facilities.

Comparable Crime

State law requires Legislative Council Staff 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. Because House Bill 16-1203 creates new misdemeanors concerning the licensure and operations of a specific type of health facility, no data exists at this time on comparable crimes.

Assumptions

The fiscal note assumes there are approximately 35 abortion clinics and potential licensees in the state, which is anticipated to remain relatively constant. Further, the fiscal note assumes that abortion clinics will have a high level of compliance with the requirements of the bill. Lastly, it is assumed that new staff under the bill will begin work on July 1, 2016.

State Revenue

The bill will increase state revenue by **at least \$231,000 in FY 2016-17 and \$49,000 in future fiscal years**. As discussed below, this revenue includes licensing revenue to the Attorney General and a minimal amount of fine revenue.

Fee impact on businesses. State law requires Legislative Council Staff to review measures which create or increase any fee collected by a state agency. Under the bill, licensing fees are set at \$6,600 for an initial license and \$1,400 for a renewal license. A licensee is defined as an individual, a partnership, a limited liability company, or a corporation licensed to operate an abortion clinic. Based on the number of assumed licensees, the bill increases licensing revenue by \$231,000 in FY 2016-17 and \$49,000 in FY 2017-18. This revenue will be deposited into the General Fund.

Criminal fines. Beginning in FY 2016-17, this bill is anticipated to increase state revenue from criminal fines by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for the unclassified misdemeanors created in HB 16-1203 ranges from \$50 to \$500. The fiscal note assumes a high level of compliance among licensees and that any revenue generated is likely to be less than \$5,000.

Civil penalties. Beginning in FY 2016-17, this bill is anticipated to increase state revenue from civil penalties by less than \$5,000 per year, credited to the General Fund. Under the bill, the Attorney General may seek civil penalties of up to \$5,000 for violations of the bill or licensing program rules established by the Attorney General. The fiscal note assumes a high level of compliance among licensees and that any revenue generated is likely to be less than \$5,000.

TABOR Impact

This bill increase state revenue from fees and fines, which will increase the amount of money required to be refunded under TABOR beginning in FY 2017-18. TABOR refunds are paid out of the General Fund. No TABOR refund is projected for FY 2016-17.

State Expenditures

The bill may increase expenditures and workload in several state agencies, as discussed below. By tasking the Attorney General with licensing oversight of abortion clinics, the bill will increase expenditures in the Department of Law by \$268,000 and 1.8 FTE in FY 2016-17 and \$257,683 and 2.0 FTE in FY 2017-18, paid from the General Fund. These costs are shown in Table 1 and described below.

Cost Components	FY 2016-17	FY 2017-18
Personal Services	\$185,724	\$202,607
FTE	1.8 FTE	2.0 FTE
Operating Expenses and Capital Outlay Costs	23,814	3,820
Legal Services	23,753	14,252
Travel Costs	2,596	2,596
Centrally Appropriated Costs*	32,113	34,408
TOTAL	\$268,000	\$257,683

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

Staffing. The Department of Law will require \$185,724 and 1.8 FTE in FY 2016-17 for staff to implement the requirements of the bill. This staff will include a physician, given that the Department of Law does not currently have medical expertise in health care facility licensing. A program assistant will also be needed to assist with administrative tasks. The Department of Law will be responsible for rulemaking, creating an application process, evaluating applications, conducting annual on-site inspections, and other tasks as necessary for the licensure of abortion clinics. These staff will investigate and respond to complaints about licensed abortion clinics and, when necessary, pursue disciplinary action. The Department of Law will also conduct compliance

reviews to ensure facilities are operating under the minimum requirements established in the bill and in rule. Operating expenses and capital outlay costs for these staff are \$23,814 in FY 2016-17 and \$3,820 in FY 2017-18 and each year thereafter.

Travel costs. The bill requires the Department of Law to conduct on-site inspections of licensed abortion clinics in the state, which will increase travel costs by \$2,596 per year. It is assumed that staff will have mileage costs of \$1,696, based on 8,000 miles at a cost of \$0.212 per mile using an existing state vehicle. One overnight stay per month is assumed at a cost of \$75 per day, resulting in a cost of \$900.

Legal services. The Department of Law will require 250 hours of legal services in FY 2016-17 and 150 hours in subsequent years. These legal services will include counsel on rulemaking, implementation, and enforcement actions. These costs will total \$23,753 in FY 2016-17 and \$14,252 in FY 2017-18.

Department of Public Safety (DPS). The DPS may be responsible for conducting fire safety inspections at some abortion clinics licensed by the Attorney General if there is no qualified local fire inspector or plan reviewer available. Because the potential number of abortion clinics that will require fire and life safety code inspections by the DPS is unknown, the fiscal note assumes any costs will be minimal. The fiscal note assumes that any needed increase in appropriations can be addressed through the annual budget process.

Judicial Department. The bill may increase workload in the trial courts by a minimal amount. The bill creates two new misdemeanors that do not currently exist in Colorado, which may increase the number of misdemeanor cases heard in the trial courts. The bill may also result in hearings concerning injunctions against abortion clinics sought by the Attorney General or a district attorney. Any potential increase from these cases is assumed to be minimal and can be absorbed within existing appropriations.

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 HB 16-1203*		
Cost Components	FY 2016-17	FY 2017-18
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$16,220	\$16,253
Supplemental Employee Retirement Payments	15,893	18,155
TOTAL	\$32,113	\$34,408

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

Local Government Impact

The bill may increase workload in local governments by a minimal amount. First, district attorneys may be required to institute legal action to enforce collection of civil penalties or fines. The fiscal note assumes a high level of compliance among licensees and as a result, any potential

workload increase as a result of civil penalties is anticipated to be minimal and can be absorbed within existing resources. The bill does not include the option of incarceration for the misdemeanor offenses, so there is no impact on county jail costs.

Effective Date

The bill was postponed indefinitely by the House Health, Insurance, and Environment Committee on April 7, 2016.

State Appropriations

For FY 2016-17, the bill requires a General Fund appropriation to the Department of Law of \$235,887 and an allocation of 1.8 FTE.

State and Local Government Contacts

Corrections	Counties	District Attorneys
Human Services	Judicial	Health Care Policy and Financing
Law	Municipalities	Public Health and Environment
Public Safety		