



**Colorado  
Legislative  
Council  
Staff**

**HB17-1086**

**FINAL  
FISCAL NOTE**

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

**Drafting Number:** LLS 17-0777 **Date:** May 25, 2017  
**Prime Sponsor(s):** Rep. Everett; Nordberg **Bill Status:** Postponed Indefinitely  
 Sen. Marble **Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** ABORTION PILL REVERSAL INFORMATION ACT

<b>Fiscal Impact Summary</b>	<b>FY 2016-2017 (Current Year)</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	<u>Less than \$5,000</u>	<u>Less than \$5,000</u>	<u>Less than \$5,000</u>
General Fund	Less than \$5,000	Less than \$5,000	Less than \$5,000
<b>State Expenditures</b>	Workload increase and potential cost increase.		
General Fund	See State Expenditures section.		
<b>TABOR Impact</b>	None.	Less than \$5,000	Less than \$5,000
<b>Appropriation Required:</b> None.			
<b>Future Year Impacts:</b> Ongoing workload and potential cost increase.			

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

**Summary of Legislation**

Except in cases of medical emergencies, this bill requires physicians to inform patients orally and in person, at least 24 hours before prescribing or giving abortion-inducing drugs to a woman or beginning the abortion, that:

- it may be possible to reverse the abortion should she change her mind, but that time is of the essence; and
- information on and assistance with reversing the effects of abortion-inducing drugs is available in the state-prepared materials.

**State-prepared information.** After telling the patient this information, the physician is required to provide a written copy of the text listed in the bill outlining information about abortion reversal, including a website and telephone number at which additional information can be obtained. The Colorado Department of Public Health and Environment (CDPHE) is required to post this information on its website and annually update the website and telephone number included in the required information, if needed.

**Civil penalties.** The bill states that failure to comply with the information requirements in the bill provides the basis for a civil action for damages; fines and penalties imposed by the Attorney General; and professional disciplinary action under Colorado's medical malpractice law. The bill specifies that penalties are not to be assessed against a women seeking abortion services and that the privacy of women shall be preserved during a civil action under the bill.

**Legal issues.** The bill states that it cannot be construed to create a right to an abortion or to make an abortion lawful if it is currently unlawful. The General Assembly may, by joint resolution, appoint one or more of its members who sponsored this bill to intervene as a matter of right in any case in the event the provisions of this bill are challenged in court.

## State Revenue

The bill may increase state revenue by a minimal amount (less than \$5,000) beginning in FY 2016-17. This revenue is from civil penalties imposed by the Attorney General, which is assumed to be deposited into the General Fund. The fiscal note assumes a high level of compliance by medical professionals and that any fine revenue generated will be minimal.

## TABOR Impact

This bill potentially increases state revenue from fines, which will increase the amount of money required to be refunded under TABOR beginning in FY 2016-17. TABOR refunds are paid out of the General Fund. TABOR refund obligations are not expected for FY 2016-17. Since the bill increases both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will increase money available for the General Fund budget in the future during years when the state does not collect money above the TABOR limit.

## State Expenditures

Beginning in the current FY 2016-17, the bill increases workload in several agencies, and potentially increases costs in the Legislative Department. These impacts are discussed below.

**Department of Public Health and Environment.** The CDPHE will have additional workload to post the required information on its website and to annually update the website link and telephone number included in the required text. It is assumed that this work can be accomplished within existing appropriations.

**Department of Law.** The Department of Law may have increased workload to receive and investigate complaints and assess civil penalties on health care providers who do not comply with the provisions of the bill. The fiscal note assumes a high level of compliance by medical professionals and that this workload can be accomplished within existing appropriations. The Department of Law may also have increased costs to provide legal services to state agencies in the event of a legal challenge to provisions of the bill.

**Department of Regulatory Agencies.** The Colorado Medical Board and the Division of Professions and Occupations in the Department of Regulatory Agencies will have increased workload under the bill to inform regulated health care professionals about the requirements to

provide required information to women seeking a drug-induced abortion. Workload may also increase to investigate and take enforcement action against health care providers who do not comply with the bill. The fiscal note assumes a high level of compliance and that any workload increase will be minimal.

**Trial courts.** The bill may increase workload in the trial courts in matters relating to civil penalties against health care providers. In addition, the bill creates a new cause of action for failure to comply with the provisions of the bill, which could result in additional lawsuits filed. Overall, the workload increase under the bill for the trial courts is expected to be minimal and can be accomplished within existing appropriations.

**Legislative Department.** Although all legislation could potentially be subject to a constitutional challenge, this bill allows the General Assembly to appoint members to intervene in the event of such a challenge. As a result, the Legislative Department may have additional costs if the General Assembly acts to appoint a member or members to intervene in the case. Current law allows for the Committee on Legal Services to retain counsel to represent a member who is acting in his or her official capacity. This counsel costs \$200 per hour. It is assumed that this cost, if incurred, would be paid from existing funding for litigation in the Office of Legislative Legal Services. If additional funding is required, it is assumed it will be requested through the budget process once actual expenses are known.

### **Effective Date**

The bill was postponed indefinitely by the House Health, Insurance, and Environment Committee on February 9, 2017.

### **Departmental Difference**

The CDPHE estimates that the bill increases expenditures by \$29,079 in FY 2017-18 and \$7,540 in FY 2018-19 and future years. These costs are based on a medical consultant reviewing the required language and developing clinical guidelines in the first year, and updating and revising the language in future years. The fiscal note does not include these costs because the bill specifies the exact language that must be posted online and does not give the CDPHE discretion on updating the language, other than updating the website link and telephone number annually.

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

Information Technology  
Law  
Legislative Legal Services  
Regulatory Agencies

Judicial  
Legislative Council Staff  
Personnel  
Public Health and Environment