



**Colorado  
Legislative  
Council  
Staff**

**HB17-1146**

**FISCAL NOTE**

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

**Drafting Number:** LLS 17-0582  
**Prime Sponsor(s):** Rep. Neville P.

**Date:** February 21, 2017  
**Bill Status:** House Health, Insurance, and Environment  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** PARENTS' RIGHTS RELATED TO MINORS

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b> Cash Funds	Potential decrease.	
<b>State Expenditures</b> General Fund Federal Funds	Minimal workload impact. Potential decrease in federal funds.	
<b>TABOR Impact</b>	Potential decrease.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing minimal workload impact and potential revenue decrease.		

**Summary of Legislation**

The bill allows a child care provider to dispense over-the-counter (OTC) medication to a child in his or her care pursuant to written authorization provided by the parent or guardian for a specified period of time. Child care providers are not civilly or criminally liable for an adverse drug reaction suffered by a child when dispensing OTC medication with such authorization. The bill also clarifies the ability of school employees to dispense OTC medication and drugs pursuant to school district policy and written authorization from a parent or guardian.

The bill also allows parents of a student enrolled by a local education provider to opt out of the collection and storage of any type of data related to his or her child.

**State Revenue**

By shielding child care providers from civil and criminal liability concerning adverse reactions to OTC medication, the bill may reduce cash fund revenue to the Judicial Department from various court filing fees for civil actions, criminal fines, and probation fees beginning in FY 2017-18. Overall, such cases are assumed to be rare and any revenue reduction is assumed to be minimal.

## TABOR Impact

This bill reduces state cash fund revenue from fees and fines by a minimal amount, which will reduce the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount.

## State Expenditures

Beginning in FY 2017-18, the bill may both increase and decrease workload for state agencies. The data collection provision of the bill may also potentially reduce federal funding available to the Colorado Department of Education (CDE). These various impacts are discussed below.

**Rulemaking.** The CDE will have a minimal increase in workload to update rules and procedures concerning dispensing medication to students and allowing parents to opt out of data collection. Likewise, the Department of Human Services will have a similar workload impact to update rules concerning child care providers. This rulemaking may also increase the amount of legal services provided to these agencies by the Department of Law. This work can be accomplished within existing appropriations.

**Federal education funding.** Allowing parents to opt out of data collection may impact the state's ability to meet federal data collection and reporting requirements for students participating in federally supported programs. If the state becomes substantially out of compliance with these requirements, the federal Department of Education has a range of enforcement actions it can take, including withholding federal funds, which would decrease funds available for expenditure by the state and school districts.

The specific federal enforcement actions depend on the severity of non-compliance. These actions may include sending a written request that the state come into compliance, increasing monitoring, placing conditions on various federal grant awards, issuing a cease and desist order, withholding all or a portion of CDE administrative funds, and suspending or withholding all or a portion of the state's Title I programmatic funds for schools. For FY 2016-17, Colorado receives about \$636 million in federal education funding. At this time, an estimate of any potential reduction is not available given the uncertainty around how parental opt outs will affect data collection accuracy and future decisions that may be made by the federal government.

**Criminal justice and judicial impacts.** To the extent expanded protection from criminal and civil liability for child care providers reduces civil lawsuits and criminal prosecutions, workload in the trial courts will be reduced. Any reduction in criminal cases may also reduce workload and costs in the Office of the State Public Defender and the Office of the Alternate Defense Counsel, which provide representation to indigent clients. To the extent future misdemeanor or felony convictions are prevented, probation services in the Judicial Department, and offender incarceration and parole supervision costs in the Department of Corrections may be reduced. It is assumed criminal cases involving medication dispensed by child care providers are rare and that any impacts on the agencies and entities listed above will be minimal.

**Local Government Impact**

This bill will affect local governments in several ways, as discussed below.

**School districts.** School districts will have additional workload to respond to parental requests to opt out of data collection and storage. Given that parents may request and review student records held by schools, and ask that inaccurate information be corrected under current law, the additional step to opt out of data storage and delete records is expected to have a minimal workload increase. School districts also report that existing processes can be modified to allow for parents to opt out of data collection upon request. To the extent that parents opting out of data collection and storage affects the availability of federal education funds to the state overall, or limit the ability of a school district to provide required information to draw down per pupil funding from the state, school districts may experience a decrease in revenue. Such impacts cannot be predicted and will depend on parent behavior and future decisions by the federal government.

**Local criminal justice expenditures.** First, the bill decreases workload for district attorneys to prosecute misdemeanor or felony offenses relating to a child care provider dispensing OTC medication. To the extent that this bill reduces misdemeanor convictions and fewer offenders are sentenced to jail, county costs will decrease. Likewise, the bill may decrease workload for the Denver County Court, managed and funded by the City and County of Denver to the extent misdemeanor cases are averted. Probation services in the Denver County Courts may also experience a minimal decrease in workload to supervise persons convicted under the bill. Given that such criminal cases involving child care providers are rare, any criminal justice impacts at the local level are assumed to be minimal.

**Effective Date**

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

Counties  
Judicial

Education  
Regulatory Agencies

Human Services  
School Districts