



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

REVISED FISCAL NOTE

(replaces fiscal note dated March 27, 2018)

Drafting Number: LLS 18-0968
Prime Sponsors: Rep. Roberts, Sen. Aguilar; Marble

Date: April 18, 2018
Bill Status: Senate Health and Human Services
Fiscal Analyst: Anna Gerstle | 303-866-4375, Anna.Gerstle@state.co.us

Bill Topic: SCHOOL NURSE GIVE MEDICAL MARIJUANA AT SCHOOL

- Summary of Fiscal Impact: State Revenue, State Expenditure (minimal), State Transfer, TABOR Refund, Local Government, Statutory Public Entity

The bill allows a school nurse, nurse's designee, or school personnel designated by a parent to administer medical marijuana to a student at school. The bill decreases state revenue and workload and increases and decreases local government revenue and workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under HB 18-1286

Table with 5 columns: Category, Sub-category, FY 2017-18, FY 2018-19, FY 2019-20. Rows include Revenue, Expenditures, Transfers, and TABOR Refund.

## **Summary of Legislation**

Under current law, a primary caregiver may possess and administer medical marijuana to a student at school. The student must have a valid recommendation for medical marijuana and the marijuana must be in nonsmokeable form. The primary caregiver must remove any remaining medical marijuana from the school grounds after administering it.

The bill allows a school nurse, school nurse's designee, or school personnel designated by a parent to also administer the medical marijuana to a student and provides an exception from criminal laws related to marijuana for this purpose. The bill specifies that school nurses or school personnel are not required to administer medical marijuana and that the bill does not apply during school activities that take place out of state.

The medical marijuana must be kept in a locked storage container and the school and student's parent must agree on a written plan for administration of medical marijuana prior to the student starting school. Either the container or administration plan must clearly label dosing, timing, and delivery instructions from the recommending physicians.

The student's parent or primary caregiver must deliver the medical marijuana to the person designated to administer it. The student may not handle the medical marijuana on school grounds, including on a school bus or a school-sponsored event.

## **Background**

Allowing school nurses to administer medical marijuana may put certain school districts and charter schools out of compliance with federal grant requirements; however, under state current law, the provisions allowing a primary caregiver to administer medical marijuana to a student at school does not apply if the district or charter school would lose federal funding as a result. Under the bill, this provision would apply to school nurses as well. As a result, the fiscal note assumes that school districts and charter schools will abide by the terms of their federal grants and that no school districts or charter schools will lose funding as a result of the bill.

## **Comparable Crime**

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 bill exempts school nurses or designated school personnel who administer medical marijuana to a student from relevant state laws related to marijuana; the fiscal note assumes that school nurses or designated personnel could otherwise be charged with the following:

- possession of two to six ounces of marijuana (level 2 drug misdemeanor);
- dispensing up to one ounce of marijuana or up to half an ounce of marijuana concentrate to a minor (level 4 drug felony); or
- dispensing any amount of synthetic cannabinoid to a minor (level 2 drug felony).

From March 2015 to March 2018, 174 individuals were convicted of those three offenses, of which 43 were convicted of possession of two to six ounces of marijuana, 129 were convicted of dispensing up to one ounce of marijuana to a minor, and 2 were convicted of dispensing a

synthetic cannabinoid to a minor. Of the 174 convicted, 147 were male, 25 were female, and 2 were of unknown gender. In addition, 144 were Caucasian, 15 were African American, 9 were Hispanic, 1 was Asian, 4 were of other ethnicities, and the ethnicity of 1 was unknown. It is unknown if any of these convictions were of school nurses.

## State Revenue

Beginning in FY 2017-18, this bill is anticipated to decrease state revenue by up to \$5,000 per year if school nurses or designated personnel who would otherwise be convicted of marijuana related offenses are exempt from certain related criminal laws.

**Criminal fines.** The bill is anticipated to decrease state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for the three relevant crimes is as follows:

- level 2 drug felony: \$3,000 to \$750,000;
- level 4 drug felony: \$1,000 to \$100,000; and
- level 2 drug misdemeanor: \$50 to \$750.

Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the expected minimal decrease in convictions as a result of the bill, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

**Court and administrative fees.** The bill may also decrease state fee revenue by a minimal amount per year, credited to the General Fund and various cash funds. Fees are imposed for a variety of court-related costs, which vary based on the offense but may include probation supervision, drug offender surcharges, victim compensation, and late fees, among others.

## TABOR Refund

The bill decreases state cash fund and General Fund revenue from fines and fees, which will decrease the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. TABOR refunds are paid out of the General Fund.

## State Expenditures

The bill may impact state workload and expenditures by a minimal amount, as discussed below.

**Judicial Department.** To the extent that this bill results in fewer marijuana offense filings as a result of exempting school nurses or designated school personnel, the bill will decrease workload for the trial courts in the Judicial Department by a minimal amount beginning in FY 2017-18. The decrease in the number of cases related possession of two to six ounces of marijuana, dispensing up to one ounce of marijuana or up to half an ounce of marijuana concentrate to a minor, or dispensing any amount of synthetic cannabinoid to a minor is expected to be minimal. No change in appropriations is required.

**Department of Corrections.** To the extent that this bill decreases the number of persons sentenced to prison for level two and level four drug felonies, costs will decrease. Individuals convicted may be sentenced to 4 to 8 years for a level two drug felony and 6 months to 1 year for a level four drug felony. Any decrease is expected to be minimal.

### **Local Government Impact**

The bill impacts local governments in several ways, discussed below.

**School Districts.** The bill increases the workload, and may increase costs by a minimal amount, for school districts to establish procedures allowing a nurse, nurse's designee, or designated school personnel to administer medical marijuana.

**City and County of Denver.** For level 2 drug misdemeanors committed in Denver County, criminal fine and court fee revenue is collected and cases are heard by the Denver County Court. As a result, the bill may decrease court workload and fee revenue by a minimal amount.

**District attorneys.** The bill may decrease workload and costs for district attorneys if fewer offenses are prosecuted under the bill.

**County jails.** Under current law, a court may sentence an offender to jail for a level two drug misdemeanor (up to 12 months). Because the courts have the discretion of incarceration or imposing a fine, the precise decrease at the local level cannot be determined, but is assumed to be minimal.

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

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

Education  
Revenue

Judicial  
School Districts

Regulatory Agencies