



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1014

REVISED FISCAL NOTE

(replaces fiscal note dated January 21, 2020)

Drafting Number: LLS 20-0197
Prime Sponsors: Rep. Tipper; Rich
Sen. Gardner

Date: February 20, 2020
Bill Status: Senate Judiciary
Fiscal Analyst: Erin Reynolds | 303-866-4146
Erin.Reynolds@state.co.us

Bill Topic: MISUSE OF HUMAN REPRODUCTIVE MATERIAL

**Summary of
Fiscal Impact:**

- | | |
|-------------------------------------------------------|------------------------------------------------------|
| <input checked="" type="checkbox"/> State Revenue | <input checked="" type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

This bill creates new civil penalties and criminal offenses related to fertility fraud. It may minimally increase state and local revenue and expenditures beginning in FY 2020-21.

**Appropriation
Summary:**

Currently, this bill includes a provision stating that a potential appropriation to the Department of Corrections may be required; however, the fiscal note estimates that the bill will not increase periods of imprisonment and that no appropriation is required.

**Fiscal Note
Status:**

This revised fiscal note reflects the reengrossed bill.

Summary of Legislation

This bill creates a new civil penalty and criminal offense related to the misuse of gametes (sperm and egg) in an assisted reproduction procedure.

Civil offense. The bill creates a new civil cause of action for misuse of gamete in an assisted reproduction procedure. The patient, the patient's current or surviving spouse, or a child born as a result of the procedure may bring an action against a health care provider who knowingly uses gamete from a donor without express consent from the patient. Prevailing plaintiffs are entitled to reasonable attorney fees and either all damages or liquidated damages of \$50,000. A separate cause of action is available for each child born as a result of the assisted reproduction procedure.

Criminal offense. If a health care provider uses their own gamete in a procedure without the patient's written consent, the provider commits a class 6 felony.

Professional misconduct. Any conviction for a gamete-related offense constitutes unprofessional conduct of a licensee.

Comparable Crime Analysis

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 an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill creates the new offense of misuse of gamete, a class 6 felony. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of practicing medicine without a license for a second or subsequent time, which is class 6 felony, as a comparable crime. For the past three fiscal years, zero offenders have been sentenced and convicted for this existing offense.

State Revenue and Expenditures

This analysis assumes that there will be a minimal impact on civil and criminal case filings. As a result, any increase of fines and court fees and related TABOR impact is expected to be minimal. Similarly, potential workload increases for the Judicial Department, the Division of Probation, agencies that provide representation to indigent persons, and the Department of Corrections require no change in appropriations.

In addition, this bill will increase workload for the State Medical Board in the Department of Regulatory Agencies (DORA) to the extent any hearings for unprofessional conduct are brought in front of the board as a result of the bill. DORA will also update its materials to reflect the change in law. No change in appropriations is required.

Local Government

Similar to the state, it is expected that any workload or cost increase for district attorneys to prosecute the new class 6 felony under the bill will be minimal. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed. It applies to causes of action arising or offenses committed on or after this date.

State and Local Government Contacts

Corrections
Information Technology
Regulatory Agencies

Counties
Judicial

District Attorneys
Law