



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 23-0531 **Date:** March 14, 2023
Prime Sponsors: Sen. Gonzales; Jaquez Lewis **Bill Status:** Senate Judiciary
Rep. Froelich; Titone **Fiscal Analyst:** Erin Reynolds | 303-866-4146
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Bill Topic: **PROTECTIONS FOR ACCESSING REPRODUCTIVE HEALTH CARE**

Summary of Fiscal Impact: State Revenue TABOR Refund
 State Expenditure Local Government
 State Transfer Statutory Public Entity

The bill codifies protections for health care providers delivering reproductive health care services in compliance with Colorado law. It will increase state and local workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill. This analysis is preliminary and will be updated following further review and any additional information received.

Summary of Legislation

The bill codifies protections for health care providers delivering reproductive health care or gender-affirming health care services in compliance with Colorado law. Specifically, these protections are in the areas of:

- insurance coverage and professional licensing regulated by the Department of Regulatory Agencies;
- courts and criminal proceedings in the Judicial Department and other law enforcement actions, including those pertaining to out-of-state investigations and proceedings; and
- licensing of facilities that provide protected health care services, regulated by the Department of Public Health and Environment.

The bill also:

- requires the Department of Corrections to provide pregnant persons with information to assist in accessing abortion and miscarriage management;
- provides health care providers protections from unauthorized release of their personal information (i.e., "doxing") and makes them eligible for the Address Confidentiality Program in the Department of Personnel and Administration;

- specifies that the Attorney General has a duty to enforce the state’s Reproductive Health Equity Act; and
- prohibits government employees from using any time or resources to engage with out-of-state investigations of a legal health care activity.

Background

On July 6, 2022, the Governor issued [Executive Order D 2022 032](#), which among other things:

- instructed state agencies not to participate in or provide information to out-of-state investigations or proceedings related to reproductive health services that are legal in Colorado, unless ordered by a court; and
- directed the Department of Regulatory Agencies to update policy and rules to ensure that regulated professionals are not subject to disciplinary actions for providing legal reproductive health care services.

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 creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior conviction data and assumptions. This bill creates a new factual basis for the existing offense of posting identifying information about an individual online, or doxing, a class 1 misdemeanor, by adding reproductive health care services worker to protected persons. From FY 2019-20 to FY 2021-22, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Expenditures

The bill increases state workload and potential costs for multiple state agencies, as discussed below.

Department of Personnel and Administration. The Department of Personnel and Administration may have an increase in future year costs if reproductive health care workers choose to participate in the Address Confidentiality Program. The program provides participants with a legal substitute address and forwards mail every business day to participants at their actual address at no cost to participants. The current staff can manage an estimated 60 new program applications and related workload per year. If reproductive health care professionals participate at a level above this threshold, additional program staff will be required and paid for with General Fund, since the Address Confidentiality Program Surcharge Fund is already fully utilized. Department costs may also include material printing; however, the fiscal note assumes that this cost will be minimal as participants can access most information online and packets will only be printed upon request. If needed, these impacts will be addressed through the annual budget process.

Department of Corrections. The fiscal note assumes that the Department of Corrections can provide information related to abortion access and ensure access to miscarriage management within existing resources. Any change in medical service costs are assumed to be minimal and will be addressed through the annual budget process, if needed.

Judicial Department. The bill will minimally impact civil case workload in the trial courts. The bill may generate new cases related to insurance coverage and doxing violations. Conversely, it may reduce cases from the prohibition of issuing state subpoenas and search warrants related to a protected health care activity. Due to the narrowly defined subject matter and assumption that parties will comply with the law, impacts are assumed to be absorbable within current resources.

Department of Law. The Attorney General’s office will enforce the Reproductive Health Equity Act and prioritize investigations as necessary within the overall number of complaints and available resources; no change in appropriations is required. The bill also requires general legal counsel to multiple state agencies concerning the restrictions and protections under the bill (for example, how to respond to requests related to out-of-state investigations), which is assumed can be accomplished within each agency’s existing legal services resources.

Departments of Public Health and Environment and Regulatory Agencies. The Department of Public Health and Environment and the Divisions of Insurance and Professions and Occupations in the Department of Regulatory Agencies will be required to update policies and procedures, which is assumed to occur within the normal course of business. The fiscal note assumes that regulated entities and professionals will comply with the law, and any enforcement impact will be minimal.

All state agencies. State agencies may initiate training around engagement with out-of-state investigations into protected health care activities. No change in appropriations is required.

Local Government

Similar to the state, local agencies and local law enforcement entities will update policies and procedures to align with the bill’s requirements, and may initiate trainings. Any workload impact is expected to be minimal. Local law enforcement agencies may have some reduction in workload from not participating or assisting in out-of-state investigations and related matters.

Effective Date

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

State and Local Government Contacts

Corrections	Counties	Information Technology
Judicial	Law	Personnel
Public Health	Regulatory Agencies	