



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

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Prime Sponsors: Sen. Ginal; Todd Rep. Buckner; Michaelson Jenet Bill Status: Senate HHS Fiscal Analyst: Aaron Carpenter | 303-866-4918 Aaron.Carpenter@state.co.us

Bill Topic: REQUIRE LICENSE PRACTICE GENETIC COUNSELING

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

This bill requires genetic counselors to be licensed before practicing in the state. The bill will increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2020-21, this bill requires a cash fund appropriation of \$35,895 to the Department of Regulatory Agencies.

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

Table 1 State Fiscal Impacts Under SB 20-040

Table with 4 columns: Category, Sub-category, FY 2020-21, FY 2021-22. Rows include Revenue (Cash Funds, Total), Expenditures (Cash Funds, Centrally Appropriated, Total), Total FTE, Transfers, and TABOR Refund (General Fund).

## **Summary of Legislation**

This bill enacts the Genetic Counselor Licensure Act, requiring genetic counselors to be licensed by the Division of Professions and Occupations in the Department of Regulatory Agencies (DORA) starting on June 1, 2021. The bill establishes the licensing requirements, including being certified by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics. In addition, the bill sets forth the application and renewal processes, continuing education requirements, the scope of practice for licensees, rulemaking authority, insurance requirements, and disciplinary procedures. The bill does not restrict the practice of certain individuals, such as doctors, students, federal employees, or individuals from another state or county who are certified. The bill is scheduled to repeal on September 1, 2027, after a sunset review. Finally, the bill creates two new misdemeanors for practicing genetic counseling without a license.

## **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.

**Prior conviction data and assumptions.** This bill creates the new offense of unauthorized practice as a genetic counselor, which is a class 2 misdemeanor for a first offense and a class 1 misdemeanor for any subsequent offense. To estimate the impact of this new crime, the fiscal note analyzed the existing offense of unauthorized practice of a profession or occupation as a comparable crime. From FY 2017-18 to FY 2019-20, zero offenders have been sentenced and convicted for this existing offense; therefore, the fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs.

## **Assumptions**

This fiscal note assumes there will be 100 genetic counselors that will apply and pay an application fee. Of those 100, 5 will apply for a provisional license in the first year. The fiscal note assumes that renewals will happen annually. In the second and future years, the fiscal note assumes there will be 5 new genetic counselor licenses.

## **State Revenue**

Revenue to the Professions and Occupation Cash Fund in DORA will increase by \$51,650 in FY 2020-21 and \$54,250 in FY 2021-22, as shown in Table 2 and discussed below. This revenue is subject to TABOR.

**Fee impact on genetic counselors.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2  
Fee Impact on SB 20-040**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
FY 2020-21	Initial License Fee	\$520	95	\$49,400
	Provisional License Fee	\$450	5	\$2,250
<b>FY 2020-21 Total</b>				<b>\$51,650</b>
FY 2021-22	Initial License Fee	\$520	5	\$2,600
	Renewal License Fee	\$520	95	\$49,400
	Provisional License Fee	\$450	5	\$2,250
<b>FY 2021-22 Total</b>				<b>\$54,250</b>

**State Expenditures**

State cash fund expenditures will increase by \$42,536 and 0.3 FTE in FY 2020-21 and by \$56,912 and 0.6 FTE in FY 2021-22, as shown in Table 3 and discussed below. These costs will be paid from the Division of Professions and Occupations Cash Fund. In addition, the bill may increase workload to the Department of Personnel and Administration (DPA) as discussed below.

**Table 3  
Expenditures Under SB 20-040**

	<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$13,705	\$41,114
Operating Expenses	-	\$810
Capital Outlay Costs	\$6,200	-
Legal Services	\$15,990	-
Investigation Work	-	\$1,200
Centrally Appropriated Costs*	\$6,641	\$13,788
FTE – Personal Services	0.2 FTE	0.6 FTE
FTE – Legal Services	0.1 FTE	0.0 FTE
<b>Total Cost</b>	<b>\$42,536</b>	<b>\$56,912</b>
<b>Total FTE</b>	<b>0.3 FTE</b>	<b>0.6 FTE</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Staff cost.** Starting in FY 2020-21, DORA requires 0.2 FTE for a program manager and 0.4 FTE for a technician to administer the licensing of genetic counselors. This work includes establishing program rules, reviewing licence application and materials, responding to public inquires and complaints, pursuing enforcement action, and other related duties. Costs associated with the additional FTE include personnel costs, operating expenses, and capital outlay costs as shown in Table 3. Costs in FY 2020-21 are prorated for a March 1 start date.

**Legal services.** DORA will also have costs of \$15,990 in FY 2020-21 for 150 hours of legal services for rulemaking. Legal services are provided by the Department of Law. The number of legal service hours requires an allocation of 0.1 FTE. In future years, it is estimated that DORA will require 60 hours of legal services for enforcement actions.

**Investigation work.** Starting in FY 2021-22, expenditures in DORA will increase by \$1,200 to contract for investigation work, including interviews, document gathering, and report writing. The fiscal note assumes that there will be 20 hours of investigative work per year at a cost of \$20 per hour.

**Disciplinary proceedings.** The bill may also increase workload in the Office of Administrative Courts (OSA) in the DPA to hold hearings related to disciplinary matters. The number of persons referred to formal proceedings in the OAC is assumed to be minimal and any increase in workload can be accomplished within existing resources.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$6,641 in FY 2020-21 and \$13,788 in FY 2021-22.

**TABOR refunds.** The bill is expected to increase state General Fund obligations for TABOR refunds by \$51,650 in FY 2020-21 and \$54,250 in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

### **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 and does not apply to conduct occurring before this date.

### **State Appropriations**

For FY 2020-21, this bill requires an appropriation of \$35,895 and 0.2 FTE from the Division of Professions and Occupation Cash Fund to the Department of Regulatory Agencies. Of this, \$15,990 and an allocation of 0.1 FTE is reappropriated to the Department of Law.

**State and Local Government Contacts**

Counties  
Information Technology  
Personnel

District Attorneys  
Judicial  
Regulatory Agencies

Higher Education  
Law