

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 14-0297
Prime Sponsor(s): Rep. Coram

Date: May 15, 2014
Bill Status: Postponed Indefinitely
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SHORT TITLE: PHYSICIAN REPORT DRIVING CONDITION DEPT REVENUE

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
Cash Funds	<\$5,000	<\$5,000
State Expenditures	\$16,669	\$3,608
General Fund	\$3,279	\$3,608
Cash Funds	13,390	0
FTE Position Change		
Appropriation Required: \$16,669 - Department of Revenue (FY 2014-15)		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This bill requires that every physician licensed under the Medical Practice Act report to the Colorado Department of Revenue (DOR) within seven days of diagnosing or learning that a patient under his or her care has been diagnosed with a disorder causing loss, interruption, or lapse of consciousness or motor function. If the licensed physician does not report this information to the DOR, the physician commits a class 2 petty offense and may be fined up to \$300 or 90 days in jail, or both. Licensed physicians who make a report in good faith are immune from civil or criminal penalty.

Immediately after being notified by the registered physician, the DOR is required to cancel the driver's license, notify the person of the cancellation by registered mail, and advise the person that they may appeal the cancellation within 30 days. If the cancellation is appealed, the DOR is required to use existing procedures to determine if the license should be canceled, reinstated, or restricted.

Background

Under current law, the DOR receives voluntary reports from licensed medical physicians when the physician deems it appropriate. The physician completes a form that is submitted to the DOR and the DOR issues a letter notifying the driver's license holder that he or she has 30 days to obtain a second opinion or the license will be cancelled. If the license is cancelled, the holder is informed of his or her appeal options.

In FY 2012-13, the DOR received 1,063 notifications under the current statute. Over the past three years, reporting has increased 10 percent each year on average.

State Revenue

Beginning in FY 2014-15, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Branch. The fine penalty for a class 2 petty offense is \$300, up to 90 days in jail, or both. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

This note assumes that physicians licensed under the Medical Practice Act will comply with the standards of practice governing their profession, which currently include making such reports in ordinary course. It is assumed that few, if any, new cases will arise from a physician failing to make the report required by this bill.

State Expenditures

Overall, this bill is expected to increase state expenditures by \$16,669 in FY 2014-15 and by about \$3,608 per year, each year thereafter. Expenditures are provided in Table 1, below, and discussed in the narrative that follows.

Assumptions. Consistent with historical growth in the number of notifications, this note assumes that the DOR will send approximately 1,286 notices of cancellation in FY 2014-15 and about 1,415 notices of cancellation in FY 2015-16.

Table 1. Expenditures Under HB 14-1068		
Cost Components	FY 2014-15	FY 2015-16
Number of cancellation notices to be sent	1,286	1,415
Postage costs (\$2.55 per piece)	\$3,279	\$3,608
Drivers Licensing System Programming Costs	13,390	0
TOTAL	\$16,669	\$3,608

Department of Revenue. In FY 2014-15, the DOR will require one-time programming costs of \$13,390 to make changes to the Drivers Licensing System (DLS). The analysis, design, coding, testing, and implementation of the changes to the DLS will require 130 hours of programming at \$103 per hour.

The bill requires the DOR to send notice of driver's license cancellations using registered mail at a cost of \$2.55 per piece. In FY 2014-15, the DOR is anticipated to issue 1,286 notices of cancellation, resulting in postage costs of \$3,279. In FY 2015-16, the DOR is expected to issue 1,415 notices of cancellation resulting in postage costs of \$3,608.

The bill will result in an increase in workload to the Hearings Division within the DOR due to increased appeals. The bill requires that the driver's license be cancelled immediately and does not provide the 30-day appeal window that is provided under current law. Therefore, it is assumed that the number of appeal hearings will increase; however, the increase is expected to be manageable and can be accomplished without new appropriations.

The DOR will also be required to develop new forms displaying the reporting requirement and print and distribute them to licensed physicians throughout the state. Since these forms are already distributed to physicians, costs to update and distribute the new forms will be minimal and absorbed within existing appropriations.

Department of Regulatory Agencies. The Department of Regulatory Agencies (DORA) regulates physicians licensed under the Medical Practice Act. This bill is not expected to increase expenditures for the DORA because the reporting required by the bill is currently required by the profession's standards of practice and already occurs in ordinary course.

Judicial Department. This fiscal note assumes that licensed physicians comply with the requirements of their profession and make these reports already. As such, any increase to the caseload of the Judicial Department as a result of this bill is expected to be minimal and does not require a new appropriation.

Local Government Impact

The bill impacts local governments in two ways. Under the bill, failure to report is punishable by either a fine or jail time, or both.

Per Section 18-1.3-503, C.R.S., the penalty for a class 2 petty offense is a fine specified in the section defining the offense. The penalty assessment procedure of Section 16-2-201, C.R.S., specifies that the arresting officer may either give the person a penalty assessment notice or take the person before a judge of the county court in which the offense occurred. To the extent that an arresting officer chooses to take a person before a judge, workload in a county court will increase. This analysis assumes the impact to the courts will be minimal.

Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$51.45 to house state inmates. It is assumed that the impact of this bill will be minimal.

Comparable Crimes

Pursuant to Section 2-2-322 (2.5), C.R.S., 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.

Current law requires certain persons such as physicians, registered nurses, dentists, clergy members, social workers, and others to report to the county department of social services if he or she observes the mistreatment, neglect, or exploitation of an at-risk adult. These reports are required to be made within 24 hours of the observation or discovery. If the observer fails to report the mistreatment, it is a class 2 petty offense, punishable by a fine up to \$300. Since 2012, there have been two cases of this kind.

Physicians and other medical professionals attending to a person who is diagnosed with AIDS, HIV-related illness, or HIV infection are required to report to the Colorado Department of Public Health and Environment (CDPHE), or to the local department of health. The report must be made within the time frame specified by the CDPHE and include the name, date of birth, sex, and address of the person being reported on. Failure to report is a class 2 petty offense, punishable by a fine up to \$300. Since 2012, there have been no cases of this kind.

Based on the low offense rate for similar crimes, it is assumed that the crime of failing to report under this bill will also have a low offense rate.

Effective Date

The bill was postponed indefinitely by the House Health, Insurance and Environment Committee on February 4, 2014.

State Appropriations

For FY 2014-15, the DOR requires a General Fund appropriation of \$3,279, and a cash fund appropriation of \$13,390 from the Colorado State Titling and Registration Account of the HUTF. In addition, the Governor's Office of Information Technology requires spending authority for \$13,390 in reappropriated funds.

State and Local Government Contacts

Revenue
Regulatory Agencies
Cities & Counties

Local Affairs
Clerk and Records

Judicial
Public Safety