

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0240
Prime Sponsor(s): Rep. Humphrey

Date: May 20, 2013
Bill Status: Postponed Indefinitely
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TITLE: CONCERNING A PROHIBITION ON ABORTION.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures	<u>\$76,987</u>	<u>\$105,967</u>
General Fund	48,902	73,800
Federal Funds	28,085	32,167
FTE Position Change	0.8 FTE	1.0 FTE
Effective Date: The bill was postponed indefinitely by the House Health, Insurance and Environment Committee on February 5, 2013.		
Appropriation Summary for FY 2013-2014: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

This bill makes knowingly terminating a pregnancy, by either procedural or pharmacological means, a Class 3 felony. Specifically, the bill prohibits anyone from administering, prescribing, procuring, or selling a pregnant woman any medicine, drug, or other substance, or employing any instrument or procedure with the intent of terminating the pregnancy.

The bill exempts from criminal penalty cases where a licensed physician:

- performs a medical procedure designed to prevent the death of a pregnant mother, if the physician makes reasonable medical efforts to preserve both the life of the mother and the unborn child; and
- provides medical treatment to the mother that results in the accidental or unintentional injury or death to the unborn child.

The bill also specifies that the pregnant woman upon whom an abortion is performed or attempted is not subject to a criminal penalty. The bill allows the sale, use, prescription, or administration of contraceptives, if administered prior to the time when a pregnancy could be determined through conventional medical testing. Finally, the bill makes a conviction related to the abortion prohibition a condition for establishing unprofessional conduct when licensing a physician.

State Expenditures

This bill is expected to increase state expenditures by \$76,987 and 0.8 FTE in FY 2013-14 and \$105,967 and 1.0 FTE in FY 2014-15. Of this, \$48,901 in FY 2013-14 and \$73,800 in FY 2014-15 are General Fund. The remainder are federal funds.

Department of Health Care Policy and Financing (DHCPF). The bill increases costs in the DHCPF by \$56,171 and 0.8 FTE in FY 2013-14 and by \$64,335 and 1.0 FTE in FY 2014-15. These costs are split evenly between General Fund and federal funds.

Current federal law requires state Medicaid programs to cover abortion in cases of rape, incest, or to save the life of the mother. A waiver of two of these requirements will be required for the bill to be implemented without jeopardizing federal matching funds to the Colorado Medicaid program. The DHCPF requires an additional staff person and the associated operating costs to develop the waiver application, receive public input, and respond to questions and concerns from the federal Centers for Medicare and Medicaid Services. FTE is prorated to 0.8 FTE in the first year to reflect a September start date and the General Fund pay date shift.

Cost Components	FY 2013-14	FY 2014-15
Personal Services	\$50,708	\$63,385
FTE	0.8	1.0
Operating Expenses and Capital Outlay	5,463	950
TOTAL	\$56,171	\$64,335

Department of Corrections (DOC). **This bill is expected to increase state General Fund expenditures in the Department of Corrections (DOC) by \$20,816 in FY 2013-14 and \$41,632 in FY 2014-15.** The bill creates a new Class 3 felony for any person who performs an abortion in violation of the new provisions. According to the most recent statistics from the Centers for Disease Control and Prevention, there were 11,598 abortions performed in Colorado in 2009. If 1 percent to 5 percent of these procedures continue to be performed illegally, the result is 116 to 580 abortions annually. The fiscal note assumes that only a few providers will be performing the procedures illegally, so estimates one prison admission and one probation case annually.

Five-Year Fiscal Impact on Correctional Facilities

Current law prohibits the General Assembly from passing any bill to increase periods of imprisonment in state correctional facilities without appropriating an amount sufficient to cover the increased capital construction and operating costs of the bill in each of the first five fiscal years. However, current law also allows the DOC to place offenders classified as medium custody and below in private contract prisons, for which no state capital construction costs are incurred.

Offenders sentenced under this bill to DOC may be placed in either a state-run or a private contract prison, depending on several factors. As state-run facilities are currently at or near capacity, any such offenders that *must* be housed in a state-run prison will likely require a shift of other inmates in that facility to private contract prisons. Therefore, *this fiscal note assumes that the impact of this bill will be accommodated through the use of private contract prisons, and that no new capital construction funds are necessary.*

Offenders placed in a private contract prison cost the state about \$57.03 per offender per day, including the current daily rate of \$52.69 and an estimated \$4.34 per offender per day for medical care provided by the DOC. Table 2 shows the estimated cost of the bill over the next five fiscal years.

Table 2. Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2013-14	1.0	\$0	\$20,816	\$20,816
FY 2014-15	2.0	\$0	\$41,632	\$41,632
FY 2015-16	3.0	\$0	\$62,448	\$62,448
FY 2016-17	4.0	\$0	\$83,264	\$83,264
FY 2017-18	5.9	\$0	\$123,647	\$123,647
Total	15.9	\$0	\$331,807	\$331,807

Judicial Branch. This bill establishes a new offense, primarily for members of the medical and pharmacy professions. Any new offense carries with it the potential for additional cases to be filed with the courts. It is anticipated that members of these professions will comply with the law, and that any new offenders will be black-market providers. The number of providers who violate the law is anticipated to be relatively small, and these new cases can be absorbed within existing resources. The Branch is anticipated to see a minimal number of new probation cases annually; however, the associated cost of these cases can also be absorbed within existing resources.

Expenditures Not Included

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. The centrally appropriated costs subject to this policy are summarized in Table 3.

Table 3. Expenditures Not Included Under HB13-1123*		
Cost Components	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$5,385	\$6,732
Supplemental Employee Retirement Payments	3,112	4,402
TOTAL	\$8,497	\$11,134

*More information is available at: <http://colorado.gov/fiscalnotes>

State Appropriations

In FY 2013-14, the DHCPF requires an appropriation of \$56,171, split evenly between General Fund and federal funds, and 0.8 FTE. The Department of Corrections requires a General Fund appropriation of \$20,816.

Departments Contacted

Corrections
Law

Health Care Policy and Financing
Public Health and Environment

Judicial
Regulatory Agencies