



**Colorado
Legislative
Council
Staff**

SB17-284

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-1133 **Date:** May 24, 2017
Prime Sponsor(s): Sen. Marble; Lundberg **Bill Status:** Lost in Senate
 Rep. Saine; Ransom **Fiscal Analyst:** Bill Zepernick (303-866-4777)

BILL TOPIC: A WOMAN'S RIGHT TO ACCURATE HEALTH CARE INFO

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	<u>Less than \$10,000</u>	<u>Less than \$10,000</u>
General Fund	Less than 5,000	Less than 5,000
Cash Funds	Less than 5,000	Less than 5,000
State Expenditures	<u>\$76,664</u>	<u>\$78,021</u>
General Fund	58,243	58,321
Centrally Appropriated Costs	18,421	19,700
TABOR Impact	Less than \$5,000	Less than \$5,000
FTE Position Change	0.9 FTE	1.0 FTE
Appropriation Required: \$58,243 - Department of Law (FY 2017-18).		
Future Year Impacts: Ongoing state revenue and expenditure increase.		

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

The bill creates the Women's Reproductive Information Guarantee for Health and Transparency Act, specifying terms related to abortions performed in Colorado. Under the bill, an abortion may not be performed or induced without the patient's voluntary and informed consent. The bill gives the Attorney General authority to create rules and procedures for the collection and review of information receipts signed by patients and abortion providers indicating that the required information was provided or that the woman declined the information.

In order to fulfill the informed consent requirements, a healthcare provider must share the following information with the patient at least 24 hours before an abortion is performed:

- the name of the physician who will perform the abortion;
- a thorough and accurate description of the proposed method for performing the abortion, including information on the probable gestational age and anatomical and physiological characteristics of the fetus;

- a description of immediate and long-term physical and psychological risks involved in the abortion procedure;
- a description of abortion reversal procedures;
- a description of alternatives to abortion;
- a description of medical assistance benefits that may be available for prenatal care, childbirth, and neonatal care, in addition to information on the liability of the father for child support; and
- any other medical or other information that a reasonable patient would consider important for making a decision.

Additionally, the bill requires that at least 24 hours prior to an abortion the healthcare provider give the patient the opportunity to receive a current picture of the ultrasound portraying the entire body of the unborn child. In the required opportunity for an ultrasound, the healthcare provider must provide:

- an oral description of all relevant features of the ultrasound, with audible heartbeat, if present;
- a written and oral description of whether or not the pregnancy is viable;
- a list of all known ultrasound providers within a ten-mile radius of the abortion provider, in order to allow a patient to seek a second opinion;
- a description of the probable gestational age of the unborn child;
- a description of the development of the unborn child's nerve endings and the unborn child's ability to feel pain at each stage of development; and
- a statement that the patient may withdraw consent to the abortion at any time.

A healthcare provider who refuses to comply with the ultrasound provision must give the woman a list of providers who will provide a free ultrasound and comply with the provisions. Further, the healthcare provider must post a notice stating that the facility does not provide ultrasounds and is not a medical facility.

Any person who recklessly violates any provision of the act commits an unclassified misdemeanor and is subject to a fine of up to \$1,000 per violation. A person who suffers a loss or injury as a result of any violation of the act may bring a cause of action against the healthcare provider. The Attorney General may impose civil penalties on abortion clinics that violate any provision of the bill related to information receipt or any other provision of law. Civil penalties may be up to \$1,000 for each violation, and the Attorney General may suspend or close an abortion clinic that commits violations.

Comparable Crime

State law requires Legislative Council Staff 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. The requirements and prohibitions under SB 17-284 do not currently apply to healthcare providers. For this reason, no information about the likely offenders or victims is available. Due to the professional nature of providers performing abortion services, the fiscal note assumes a high rate of compliance with the provisions of this bill.

State Revenue

Beginning in FY 2017-18, this bill is anticipated to increase state revenue by less than \$10,000 per year from criminal fines and fees and civil penalties. These revenue impacts are discussed below.

Criminal fines. 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 Department. The fine penalty for the unclassified misdemeanor under the bill may be up to \$1,000 per violation. Because the courts may impose a fine up to this maximum amount, the precise impact to state revenue cannot be determined. However, based on the likelihood of high compliance among healthcare providers, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

Court and administrative fees. To the extent convictions occur, fee revenue in the Judicial Department may increase by a minimal amount. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court. Typical fees may include such items as probation supervision, genetic testing, victim compensation, late fees, and other administrative fees. Some fee revenue is shared with local governments; please refer to the Local Government Impact section for additional information.

Civil penalties. Beginning in FY 2017-18, this bill is anticipated to increase General Fund revenue by less than \$5,000 from civil penalties. Under the bill, the Attorney General may impose a civil penalty of up to \$1,000 for a violation under the bill. Given that the Attorney General has flexibility in the amount of the fine imposed and that the fiscal note assumes a high level of compliance by abortion clinics, any increase in fine revenue is projected to be minimal. Revenue from civil penalties is exempt from TABOR.

TABOR Impact

This bill increases state cash fund revenue from fines and fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

The bill increases costs in the Department of Law by \$76,664 and 0.9 FTE in FY 2017-18 and \$78,021 and 1.0 FTE in FY 2018-19. Workload will also increase in the Judicial Department and the Department of Regulatory Agencies. Costs are summarized in Table 1. The fiscal note assumes that staff will be hired and any other impacts will be incurred after July 1, 2017.

Table 1. Expenditures Under SB 17-284		
Cost Components	FY 2017-18	FY 2018-19
Personal Services	\$52,590	\$57,371
FTE	0.9 FTE	1.0 FTE
Operating Expenses and Capital Outlay Costs	5,653	950
Centrally Appropriated Costs*	18,421	19,700
TOTAL	\$76,664	\$78,021

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

Department of Law. The Department of Law will require 1.0 FTE for a health professional to create program rules and monitor compliance by abortion clinics in meeting the information disclosure requirements. Personal service, operating, and capital outlay expenses for this staff are shown in Table 1.

Judicial Department. The bill may increase workload in the trial courts by a minimal amount. The bill may result in additional criminal filings for healthcare providers acting in violation of the bill. The bill also creates a new civil cause of action against healthcare providers that may result in additional civil filings. However, the fiscal note assumes a high level of compliance among healthcare providers and that no new appropriations are required for this purpose.

Office of the State Public Defender and the Office of Alternate Defense Counsel. The bill may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel, to provide representation for any persons deemed to be indigent. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for either agency.

Department of Regulatory Agencies. The bill may increase workload in the Division of Professions and Occupations to investigate and adjudicate complaints of unprofessional conduct concerning healthcare providers who do not comply with the provisions of the bill. Given the assumed high rate of compliance, any impact to the Department of Regulatory Agencies is assumed to be minimal and no change in appropriations is required.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under SB 17-284		
Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$7,593	\$8,435
Supplemental Employee Retirement Payments	4,712	5,141
Indirect Costs	6,116	6,124
TOTAL	\$18,421	\$19,700

Local Government Impact

The bill impacts the revenue and workload of local governments in several ways. These impacts are discussed below.

Local law enforcement and district attorneys. Workload will increase by a minimal amount for local law enforcement agencies to investigate, and for district attorneys to prosecute any violations under the bill.

Criminal fine revenue. This bill is anticipated to increase revenue by less than \$5,000 per year for the City and County of Denver. The fine penalty for the unclassified misdemeanor is up to \$1,000 per violation.

Court and administrative fees. Similar to the state, court and administrative fee revenue will increase. In the City and County of Denver, probation fee revenue is anticipated to increase by \$50 per month, per offender. For all jurisdictions, revenue is anticipated to increase by a minimal amount as a result of any court and administrative fees shared with the state.

Effective Date

The bill was lost on second reading in the Senate on April 13, 2017.

State Appropriations

For FY 2017-18, the bill requires a General Fund appropriation of \$58,243 to the Department of Law and an allocation of 0.9 FTE.

State and Local Government Contacts

Counties
Health Care Policy and Financing
Judicial
Public Health and Environment

District Attorneys
Information Technology
Law