



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**FISCAL NOTE**

|                         |                                  |                        |   |
|-------------------------|----------------------------------|------------------------|---|
| <b>Drafting Number:</b> | LLS 18-0658                      | <b>Date:</b>           | March 7, 2018   |
| <b>Prime Sponsors:</b>  | Rep. Ginal; Buckner<br>Sen. Todd | <b>Bill Status:</b>    | House Health, Insurance, and<br>Environment                 |
|                         |                                  | <b>Fiscal Analyst:</b> | Bill Zepernick   303-866-4777<br>Bill.Zepernick@state.co.us |

**Bill Topic:** REQUIRE LICENSE PRACTICE GENETIC COUNSELING

**Summary of Fiscal Impact:**

|   |  |
|---|--|
| <input checked="" type="checkbox"/> State Revenue     | <input type="checkbox"/> TABOR Refund                |
| <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer               | <input type="checkbox"/> Statutory Public Entity     |

This bill requires that genetic counselors be licensed in order to practice in Colorado. This will increase state revenue and expenditures, and potentially local expenditures, on an ongoing basis.

**Appropriation Summary:** For FY 2018-19, the bill requires an appropriation of \$22,677 to the Department of Regulatory Agencies.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under HB 18-1114**

|                     |                        | FY 2018-19      | FY 2019-20               |
|---------------------|------------------------|-----------------|--------------------------|
| <b>Revenue</b>      | Cash Funds             | \$33,600        | at least \$36,400        |
|                     | <b>Total</b>           | <b>\$33,600</b> | <b>at least \$36,400</b> |
| <b>Expenditures</b> | Cash Funds             | \$22,677        | \$38,416                 |
|                     | Centrally Appropriated | \$1,710         | \$6,727                  |
|                     | <b>Total</b>           | <b>\$24,387</b> | <b>\$45,143</b>          |
|                     | <b>Total FTE</b>       | <b>0.1 FTE</b>  | <b>0.5 FTE</b>           |
| <b>Transfers</b>    |                        | -               | -                        |

## Summary of Legislation

This bill requires that all genetic counselors in Colorado be licensed by the Division of Professions and Occupations in the Department of Regulatory Agencies (DORA) by July 1, 2019. The bill sets forth the requirements for genetic counselors seeking licensure, including the requirements that applicants be certified as a genetic counselor or medical geneticist by certain national organizations, unless the applicant meets the criteria for a provisional license while obtaining the national certification.

The bill also sets forth application and renewal processes, scope of practice for genetic counselors, rulemaking authority, disciplinary procedures, and other provisions related to the establishment of the licensure program. Only licensed individuals may use the title of "genetic counselor" and other related titles. The licensure program is repealed on September 1, 2020, following a sunset review. The bill creates new misdemeanor offenses for practicing genetic counseling without a license (class 2 misdemeanor for a first offense; class 1 misdemeanor for second and subsequent offenses).

## Assumptions

The fiscal note assumes that 120 genetic counselors will be licensed in FY 2018-19 prior to the registration deadline. In future years, it is assumed that 10 new applicants will seek licensure. It is assumed that licenses are renewed annually.

## Comparable Crime

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. This bill creates new misdemeanor offenses related to the unlicensed practice of genetic counseling. While data on the number of cases and convictions involving other similar offenses, such as the practice of medicine without a license, is not available as of this writing, it is assumed to be a small number and that most enforcement will be handled administratively by DORA, rather than the criminal justice system. Given the relatively small number of genetic counselors, the number of cases and convictions under the bill is also assumed to be minimal.

## State Revenue

The bill increases state revenue by \$33,600 in FY 2018-19 and by at least \$36,400 in FY 2019-20 and future years. This revenue is primarily from fees collected from genetic counselors. The bill may also increase criminal fine revenue by a minimal amount starting in FY 2019-20. These impacts are discussed below.

**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, actual program costs, and the number of licensed professionals subject to the fee. The table below identifies the estimated fee impact of this bill. Fee revenue is deposited into the Division of Professions and Occupations Cash Fund.

**Table 2  
 Fee Impact on Genetic Counselors**

| <b>Fiscal Year</b>      | <b>Type of Fee</b>  | <b>Proposed Fee</b> | <b>Number Affected</b> | <b>Total Fee Impact</b> |
|-------------------------|---------------------|---------------------|------------------------|-------------------------|
| <b>FY 2018-19</b>       | Initial License Fee | \$280               | 120                    | \$33,600                |
|                         | License Renewal Fee | -                   | -                      | -                       |
| <b>FY 2018-19 Total</b> |                     |                     |                        | <b>\$33,600</b>         |
| <b>FY 2019-20</b>       | Initial License Fee | \$280               | 10                     | \$2,800                 |
|                         | License Renewal Fee | \$280               | 120                    | \$33,600                |
| <b>FY 2019-20 Total</b> |                     |                     |                        | <b>\$36,400</b>         |

**Criminal fines.** The bill may increase state revenue from criminal fines by a minimal amount starting in FY 2019-20, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty between \$250 and \$1,000 may be imposed for a class 2 misdemeanor, and between \$500 and \$5,000 for a class 1 misdemeanor. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed by the courts and the assumption that convictions for these offenses will be rare, the fiscal note assumes that any revenue generated will be less than \$5,000 per year.

**Court and administrative fees.** The bill will also increase state fee revenue from court fees by a minimal amount, credited to the General Fund and various cash funds. Fees are imposed for a variety of court-related costs, which vary based on the offense but may include probation supervision, drug or sex offender surcharges, victim compensation, and late fees, among others. Some fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

**TABOR Refund**

The bill increases state revenue subject to TABOR by \$33,600 in FY 2018-19 and at least \$36,400 in FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

**State Expenditures**

The bill increases expenditures in DORA by \$24,387 and 0.1 FTE in FY 2018-19 and \$45,143 and 0.5 FTE in FY 2019-20 and future years. These costs are paid from the Division of Professions and Occupations Cash Fund. The bill may also increase workload for the Judicial Department and the Department of Personnel and Administration (DPA). These impacts are discussed below. Costs in DORA are summarized in Table 3.

**Table 3  
 Expenditures Under HB 18-1114**

|   | <b>FY 2018-19</b> | <b>FY 2019-20</b> |
|---|-------------------|-------------------|
| <b>Department of Regulatory Agencies</b>    |                   |                   |
| Personal Services                           | \$9,982           | \$29,949          |
| Operating Expenses and Capital Outlay Costs | \$4,703           | \$475             |
| Legal Services                              | \$7,992           | \$7,992           |
| Centrally Appropriated Costs*               | \$1,710           | \$6,727           |
| FTE – Personal Services                     | 0.1 FTE           | 0.5 FTE           |
| <b>Total Cost</b>                           | <b>\$24,387</b>   | <b>\$45,143</b>   |
| <b>Total FTE</b>                            | <b>0.1 FTE</b>    | <b>0.5 FTE</b>    |

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

**Department of Regulatory Agencies.** DORA will have costs for 0.5 FTE for staff to administer the licensing of genetic counselors. This work will include establishing program rules, reviewing license applications and materials, responding to public inquiries and complaints, pursuing enforcement actions, and other related duties. Personal services, operating, and capital outlay expenses for this staff are showing in Table 3 above. Staffing expenses are prorated in the first year to 0.1 FTE to reflect a start date of March 1, 2019, three months prior to the mandatory licensing date. DORA will also have costs of \$7,992 for 75 hours of legal services provided by the Department of Law, which will concern rulemaking in the first year and enforcement actions in future years.

**Disciplinary and criminal proceedings.** The bill may also increase workload in the Office of Administrative Courts in the DPA and the trial courts in the Judicial Department to hold hearings related to disciplinary matters and misdemeanor offenses, respectively. The number of persons referred to formal proceeding in the OAC or the trial courts will be minimal and both the DPA and the Judicial Department can address this workload within existing appropriations.

**Agencies providing representation to indigent persons.** Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel may increase under the bill if any persons on trial for the new misdemeanor offense under the bill are indigent. To the extent this occurs, this analysis assumes the affected offices will request an increase in appropriations through the annual budget process.

**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 \$1,710 in FY 2018-19 and \$6,727 in FY 2019-20.

**Local Government**

Overall, this bill may minimally increase local government revenue, workload, and costs as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction. Given that the new misdemeanor offenses are assumed to occur infrequently, these impacts are assumed to be minimal.

**District attorneys.** The bill increases workload and costs for district attorneys to prosecute any new offenses under the bill.

**County jails.** Under current law, a court may sentence an offender to jail for a period of between 3 and 12 months for a class 2 misdemeanor offense and between 6 and 18 months for a class 1 misdemeanor. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.39 to house state inmates.

**Denver County Court.** The bill may minimally increase workload and revenue for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases under the bill for unlicensed practice of genetic counseling arising in Denver county. Probation services in the Denver County Courts may also experience a minimal increase in workload and revenue to supervise persons convicted under the bill within Denver County. To the extent these cases arise, criminal fine and court fee revenue collected by Denver County Court may increase. Because the court has discretion to impose a term of incarceration, a fine, or both, the precise impact to Denver County has not been estimated. Please refer to the State Revenue section above for information about fine penalty ranges and court fees.

## Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed. The bill applies to conduct occurring on or after this date.

## State Appropriations

For FY 2018-19, this bill requires an appropriation of \$22,677 to DORA from the Division of Professions and Occupations Cash Fund and an allocation of 0.1 FTE. Of this amount, \$7,992 is reappropriated to the Department of Law for legal services.

## State and Local Government Contacts

|                        |                    |
|------------------------|--------------------|
| Counties               | District Attorneys |
| Information Technology | Judicial           |
| Law                    | Personnel          |
| Regulatory Agencies    |                    |