



Legislative Council Staff

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Fiscal Note

Drafting Number: LLS 21-0832 **Date:** May 10, 2021
Prime Sponsors: Rep. Weissman; Neville **Bill Status:** House Judiciary
 Sen. Smallwood; Zenzinger **Fiscal Analyst:** Max Nardo | 303-866-4776
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Bill Topic: **HEALTH-CARE PROVIDER LIENS FOR INJURED PERSONS**

Summary of Fiscal Impact:

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

The bill creates a new type of statutory lien for health care providers treating an individual injured by negligence or a wrongful act, and imposes limitations on business practices associated with these liens. It increases state revenue on an ongoing basis and increases expenditures in FY 2021-22 only.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$59,800 to the Department of State.

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

Table 1
State Fiscal Impacts Under HB 21-1300

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	Cash Funds	\$16,000	\$16,000
	Total Revenue	\$16,000	\$16,000
Expenditures	Cash Funds	\$59,800	-
	Total Expenditures	\$59,800	-
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill creates a new type of statutory lien for health care providers treating an individual injured by negligence or a wrongful act, and imposes limitations on business practices associated with these liens.

Limitations on liens. The bill establishes the following requirements concerning health care provider liens asserted against money the injured person may receive from a settlement:

- the amount of the lien cannot exceed charges for services provided, which must be charged at the provider's customary rate;
- the lien cannot include additional finance charges or interest;
- if the injured person does not receive a settlement, they are not liable for any amount of the lien;
- if the injured person receives a settlement that is less than the amount of the lien, they are not liable for any amount over the settlement; and
- the lienholder cannot assign the lien to a collection agency.

Disclosure. A health care provider creating a lien must advise the injured person of the limitations described above. In addition, the provider must inform the injured person of their options for payment and additional disclosures about the lien, as detailed in the bill.

Filing with the state. A lienholder may file notice with the Secretary of State (SOS), granting their lien priority over any other lien against the same settlement, with additional prioritization granted to liens with earlier filing dates.

State Revenue

The bill increases revenue in the SOS by an estimated \$16,000 per year beginning in FY 2021-22. The revenue is from an estimated 2,000 liens filed annually with an \$8 filing fee. This estimate assumes there will be two-thirds as many health care provider liens filed as there are hospital liens (3,000 per year), which is roughly equivalent to the ratio of health care spending for physicians and clinical services relative to hospital care. Per department rule, lien filings must be made online using the SOS filing system. Revenue is deposited into the Department of State Cash Fund and is subject to TABOR.

State Expenditures

The bill increases expenditures in the Department of State and may increase workload and costs in other state agencies, as discussed below.

Department of State. The bill creates a one-time cost of \$59,800 in FY 2021-22 from the Department of State Cash Fund. Accepting new lien filings requires the development of various lien filing forms (notice, amendment, assignment, and termination), and development of filing and search capabilities. This is anticipated to require 520 contract developer hours at a rate of \$115 per hour.

Department of Health Care Policy and Financing. Medicaid is the payer of last resort and may recover costs from a lien if there is another responsible party. Depending on the value and number of liens and the judgment of the courts, the bill may reduce the department's recoveries of Medicaid liens against settlements by prioritizing other liens over the department's. Any such impacts will accrue to the department through the annual budget process.

Other state agencies. Workload will minimally increase for the Department of Regulatory Agencies to conduct outreach and education in the Insurance and Professions and Occupations Divisions. The Uniform Consumer Credit Code, regulated by the Department of Law, is not expanded under the bill, therefore no change in appropriations is required.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$59,800 to the Department of State from the Department of State Cash Fund.

State and Local Government Contacts

Counties
Law
State

Health Care Policy and Financing
Public Health and Environment

Judicial
Regulatory Agencies