



**Colorado  
Legislative  
Council  
Staff**

**SB16-150**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated March 7, 2016)

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

**Drafting Number:** LLS 16-0066  
**Prime Sponsor(s):** Sen. Steadman  
Rep. Esgar

**Date:** May 3, 2016  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** MARRIAGES BY INDIVIDUALS IN CIVIL UNIONS

<b>Fiscal Impact Summary*</b>	<b>FY 2016-2017</b>	<b>FY 2017-2018</b>
<b>State Revenue</b> Cash Funds	Minimal increase. See State Revenue section.	
<b>State Expenditures</b>	Minimal workload increase. See State Expenditures section.	
<b>TABOR Impact</b>		Minimal increase.
<b>Appropriation Required:</b> None.		
<b>Future Year Impact:</b> Minimal ongoing increase in state revenue and workload.		

**Summary of Legislation**

This bill amends state law concerning civil unions and marriage to do the following:

- allow persons in a valid current civil union to marry each other without having to first dissolve the civil union;
- specify that a civil union and marriage are merged when two people in a civil union subsequently enter into marriage and that the civil union terminates on the date of the new marriage;
- specify that the Uniform Dissolution of Marriage Act applies to marriages that result from a merger with a civil union;
- specify that time spent in a civil union prior to it being converted to marriage is included when determining the duration of such a marriage during dissolution proceedings;
- apply state bigamy laws to persons currently in a civil union who enter into marriage with someone other than the civil union partner or persons who enter into another civil union;
- require the Department of Public Health and Environment to update the marriage application form to capture certain information about any prior civil unions entered into or merged with a marriage; and
- repeal the provision of the Colorado civil union statute that specifies that marriage between two persons of the same sex who are married in another state are recognized as civil unions in Colorado.

## **Background**

***Civil unions and same-sex marriage.*** Civil unions, including those of same-sex couples, have been legal in Colorado since May 2013, following the passage of SB13-011. Recent court decisions in several cases arising in the United States 10th Circuit Court of Appeals ultimately resulted in Colorado's ban on same-sex marriage being declared unconstitutional. Beginning in October 2014, county clerks in Colorado began issuing marriage licenses to same-sex couples.

## **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. SB 16-150 creates a new factual basis for the offense of bigamy by adding persons involved in a civil union that enter into more than one legally recognized relationship. Over the previous three years, there have been three convictions for bigamy involving persons in opposite-sex marriages. The race and gender make up of these convictions is one white male, one white female, and one black female. None of these offenders were sentenced to the custody of the Department of Corrections.

## **Assumptions**

By applying bigamy statutes to the several thousand persons in civil unions in the state, the fiscal note assumes there may be one additional conviction every five years for the class 6 felony offense of bigamy involving persons in civil unions. However, due to the disposition of existing cases, this analysis assumes future offenders will not be sentenced to the Department of Corrections (DOC).

## **State Revenue**

Beginning in FY 2016-17, this bill may increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department, by expanding the offense of bigamy to cover persons in civil unions entering into multiple legal relationships. The fine penalty for a class 6 felony is between \$1,000 and \$100,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. In addition, if any persons are convicted of an offense and sentenced to probation, revenue may also increase from the \$50 per month fee paid by individuals placed on probation. However, due to the relatively small number of persons in civil unions and the low number of convictions for bigamy in recent years, the fiscal note assumes that any revenue generated will be minimal.

## **TABOR Impact**

To the extent the bill increases state cash fund revenue from fines, it will increase the amount of revenue required to be refunded under TABOR beginning in FY 2017-18. TABOR refunds are paid from the General Fund. No TABOR refund is projected for FY 2016-17.

**State Expenditures**

This bill may increase state expenditures and workload beginning in FY 2016-17 for the Department of Corrections, the Judicial Department, and the Department of Public Health and Environment, as discussed below.

**Department of Corrections.** If a person is convicted and sentenced to the Department of Corrections, costs will increase. However, the fiscal note assumes that any convictions for bigamy under the bill will likely not be sentenced to the DOC. For information purposes, offenders placed in a private contract prison cost the state about \$59.90 per offender per day, including the current daily rate of \$56.02 and an estimated \$3.88 per offender per day for medical care provided by the DOC. To the extent any additional convictions occur and offenders are sentenced to a term of incarceration in a state prison, this analysis assumes the DOC will request any additional appropriations required in the future through the annual budget process.

**Judicial Department.** Under this bill, workload for trial courts may increase by a minimal amount to hear any cases involving bigamy for persons who are in a civil union. To the extent that any persons are convicted of an offense and sentenced to probation, costs may also increase. If a person accused of a crime under the bill is indigent, costs for representation may also increase for the Office of the State Public Defender or the Office of the Alternate Defense Counsel. The fiscal note assumes any increase in workload or costs is minimal and can be accommodated within existing appropriations. The provisions of the bill involving dissolution of marriage and determination of spousal maintenance are not expected to affect trial court caseload.

**Department of Public Health and Environment.** The Department of Public Health and Environment will have a minimal increase in workload to redesign marriage license application forms to capture information required by the bill. No changes in appropriations are required to accomplish this work.

**Local Government Impact**

The bill may increase costs for county clerks and recorders to adjust various marriage application forms and procedures. These costs are estimated to be minimal.

**Effective Date**

The bill takes effect upon signature of the Governor or becoming law without his signature, with the exception of Section 7, which takes effect July 1, 2016, and applies to offenses committed on or after this date.

**State and Local Government Contacts**

Public Health and Environment Law Counties	Judicial Personnel County Clerks	Corrections Revenue District Attorneys
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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: [www.colorado.gov/fiscalnotes](http://www.colorado.gov/fiscalnotes).