



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**SB 20-077**

# FINAL FISCAL NOTE

<b>Drafting Number:</b>	LLS 20-0926	<b>Date:</b>	September 1, 2020
<b>Prime Sponsors:</b>	Sen. Woodward Rep. Sandridge	<b>Bill Status:</b>	Postponed Indefinitely
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**Bill Topic:** **BORN ALIVE CHILD PHYSICIAN RELATIONSHIP**

<b>Summary of Fiscal Impact:</b>	<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 would have established a physician-patient relationship between a physician and a child born alive during or after an abortion and would have established penalties against physicians who are in violation of the bill. This bill would have minimally increased state workload on an ongoing basis.

**Appropriation  
Summary:** No appropriation was required.

**Fiscal Note  
Status:** This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

## Summary of Legislation

This bill establishes a physician-patient relationship between a physician performing an abortion, and a child born alive after or during an abortion. The bill requires the physician to exercise the same degree of skill and care to preserve the life and health of the child as a reasonably diligent physician would. A physician who fails to do so is liable for a civil penalty of at least \$100,000, commits unprofessional conduct, and commits a class 3 felony. Any person who has knowledge of any violations of this bill and fails to report it to the Attorney General commits a class 1 misdemeanor.

## Comparable Crime Analysis

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 an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

**Class 3 felony.** This bill creates the new a class 3 felony for failing to provide medical treatment to a child born alive after an abortion. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of unlawful termination of a pregnancy in the first degree, as a comparable crime. From FY 2017-18 to FY 2019-20, one offender was sentenced and convicted for this existing offense. The individual was a White, male, and was sentenced to the Department of Corrections for 48 years.

**Class 1 misdemeanor.** This bill creates the new class 1 misdemeanor of failing to report a violation of this section to the Attorney General. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of failure to report child abuse by a mandatory reporter, as a comparable crime. From FY 2017-18 to FY 2019-20, three offenders have been sentenced and convicted for this existing offense; of which all three were White and male. There were no sentences to jail.

**Assumptions.** The fiscal note assumes that physicians will comply with the law and, therefore, there will be no change or a minimal increase in the number of felony cases or associated civil cases. Correspondingly, the new misdemeanor offense for failure to report a violation is expected to result in no change or minimal increase in cases.

### **State Revenue and Expenditures**

This analysis assumes that there will be a minimal impact on civil and criminal case filings. As a result, any increase of fines and court fees and related TABOR impact is expected to be minimal. Similarly, potential workload increases for the Judicial Department, the Division of Probation, agencies that provide representation to indigent persons, and the Department of Corrections, require no change in appropriations. Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

In addition, starting in the current FY 2019-20, this bill increases workload in the Medical Board in the Department of Regulatory Agencies, and Department of Law. To the extent physicians do not comply with the law, there will be additional hearings for unprofessional conduct in front of the Medical Board, increasing workload. Workload will increase for the Department of Law to bring a suit and collect the penalty required by the bill. Based on the assumptions listed above, any increases in expenditures and workload are assumed to be minimal.

### **Local Government**

Similar to the state, it is expected that any workload or cost increase for district attorneys to prosecute the new class 6 felony and class 1 misdemeanor will be minimal. In addition, any workload or cost increases for county jails to imprison anyone charged with the new class 1 misdemeanor is assumed to be minimal. District attorney offices and county jails are both funded by counties.

### **Effective Date**

This bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on February 3, 2020.

### **State and Local Government Contacts**

Corrections  
Law

Information Technology  
Regulatory Agencies

Judicial  
Sheriffs