

**STATE  
FISCAL IMPACT**

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|-------------------------------------|---|
| <b>Drafting Number:</b> LLS 14-0614 | <b>Date:</b> January 30, 2014                                   |
| <b>Prime Sponsor(s):</b> Rep. Conti | <b>Bill Status:</b> House Public Health Care and Human Services |
|                                     | <b>Fiscal Analyst:</b> Kerry White (303-866-3469)               |

**SHORT TITLE:** ADVERTISING CHILDREN TO TRANSFER CARE TRAFFICKING

| Fiscal Impact Summary*               | FY 2014-2015  | FY 2015-2016       |
|--------------------------------------|---|--------------------|
| <b>State Revenue</b>                 | <u>&lt;\$5,000</u>                                  | <u>&lt;\$5,000</u> |
| Cash Funds                           | <\$5,000  | <\$5,000           |
| <b>State Expenditures</b>            | Potential increase. See State Expenditures section. |                    |
| General Fund                         |   |                    |
| <b>FTE Position Change</b>           |   |                    |
| <b>Appropriation Required:</b> None. |   |                    |

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

This bill amends the current law against trafficking in children and adds receiving a child as a result of a prohibited advertisement as a new element of the existing class 2 felony offense. The bill also creates a new crime by prohibiting the advertisement of children for adoption by non-lawful parties. The new crime is punishable as a class 6 felony.

**Background**

Between January 1, 2012, and December 31, 2013, there were no convictions for the offense of trafficking in children. Currently, there is no specific law prohibiting a person from advertising that he or she is looking to adopt in Colorado. It is illegal to advertise oneself or act as a broker for adoptions in Colorado, and a person who does so is ordered to cease and desist. State rules under the Department of Human Services (DHS) require that adoptions be handled by agencies, except when it is a relative, custodial, second parent, or step-parent adoption. There are no known recent instances of a person advertising to adopt or to serve as a broker for adoptions in Colorado. There are no current penalties for a person who has informally adopted a child or for the parent who has allowed an informal adoption. DHS identified one recent case where there was suspicion that a child was placed illegally. This case was dismissed by the court.

**State Revenue**

Beginning in FY 2014-15, 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 Branch. The fine penalty for a class 2 felony is \$5,000 to \$1,000,000 and the fine penalty of a class 6 felony is

\$1,000 to \$100,000. The fiscal note assumes that there will be no additional convictions of a class 2 felony under the bill, but that there could be one conviction of the new class 6 felony every five years. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

### **State Expenditures**

Overall, this bill may increase state expenditures and workload for the Department of Corrections and the Judicial Department, as discussed below.

**Assumptions.** The fiscal note assumes that one person every five years may be convicted of a class 6 felony for the new crime of advertising of children for adoption, but that the new factual basis for the class 2 felony of trafficking in children will not result in any new convictions.

**Department of Corrections.** If a person is convicted and sentenced to the Department of Corrections (DOC), costs will increase. Offenders placed in a private contract prison cost the state about \$58.86 per offender per day, including the current daily rate of \$53.74 and an estimated \$5.12 per offender per day for medical care provided by the DOC. Because it is not possible to determine the timing of any convictions or the disposition of the offender (class 6 felons generally receive sentences other than incarceration in the DOC), this analysis assumes the DOC will request any additional appropriations required in the future through the annual budget process.

**Judicial Department.** This bill may increase workload for trial courts to hear any cases related to unlawful advertisement of a child for adoption or persons suspected of receiving a child as a result of a prohibited advertisement. 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.

### **Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., 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. HB14-1149 creates a new factual basis for the offense of trafficking in children. Between January 1, 2012, and December 31, 2013, there were no convictions of this offense. The bill also creates a new offense for advertising children for adoption. The fiscal note assumes there may be one offense every five years. Due to the lack of convictions, there is no information about the gender or minority status of victims.

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

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

Corrections  
Human Services

Counties  
Judicial

District Attorneys  
Sheriffs