

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0370
Prime Sponsor(s): Rep. Ginal
 Sen. Todd

Date: February 18, 2015
Bill Status: House Health, Insurance and
 Environment
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BILL TOPIC: REQUIRE LICENSE TO PRACTICE GENETIC COUNSELING

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	<u>at least \$68,000</u>	<u>at least \$72,250</u>
Cash Funds	at least 68,000	at least 72,250
State Expenditures	<u>\$68,521</u>	<u>\$65,899</u>
Cash Funds	58,586	53,699
Centrally Appropriated Costs**	9,935	12,200
TABOR Set Aside	at least \$68,000	at least \$72,250
FTE Position Change	0.5 FTE	0.6 FTE
Appropriation Required: \$58,586 - Department of Regulatory Agencies (FY 2015-16)		

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

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

The bill creates a licensure program for genetic counselors in the Division of Professions and Occupations (DPO) in the Department of Regulatory Agencies (DORA). Genetic counselors in Colorado must be licensed by June 1, 2016. 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 The licensure program is repealed on September 1, 2020, following a sunset review.

State Revenue

The bill increases fee revenue from licensing fees credited to the DPO Cash Fund in the DORA. Fine revenue from criminal penalties may also be received. Fees are outlined in Table 1 on the following page and the revenue impacts are discussed further below.

Assumptions. In estimating state revenue, the fiscal note assumes the following:

- 80 genetic counselors who will seek licensure by June 1, 2016;
- licenses must be renewed annually; and
- approximately 5 new genetic counselors will seek licensure in subsequent years.

Fee impact on individuals. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. The licensing fee amounts displayed in Table 1 are estimates only; actual fee amounts are set administratively by the DORA based on cash fund balance, estimated program costs, and the estimated number of genetic counselors.

Table 1. Fee Impact on Genetic Counselors			
Type of Fee	Fee	Number Affected	Total Fee Impact
FY 2015-16			
Initial License Fee	\$850.00	80	\$68,000
Subtotal			\$68,000
FY 2016-17			
License Renewal Fee	\$850.00	80	\$68,000
Initial License Fee	\$850.00	5	4,250
Subtotal			\$72,250
Two-year Fee Total			\$140,250

Criminal penalties. Beginning in FY 2016-17, this bill may increase fine revenue for criminal offenses by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. A person practicing as a genetic counselor without a license, unless under a specified exemption, commits a class 2 misdemeanor, and subsequent violations are class 1 misdemeanors. The penalty for a class 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a fine of \$250 to \$1,000, or both. The penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. 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 in 2014 and the assumption that genetic counselors will register as required, revenue generated will be less than \$5,000 per year.

TABOR Impact

This bill increases state cash fund revenue from fees and penalties, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund

State Expenditures

This bill increases costs in DORA starting in FY 2015-16, paid from the DPO Cash Fund. The bill may also increase workload in the Department of Personnel and Administration (DPA) and the Judicial Department by a minimal amount. Expenditures are summarized in Table 2 on the following page and described below.

Table 2. Expenditures Under HB 15-1147		
Cost Components	FY 2015-16	FY 2016-17
Personal Services	\$30,461	\$36,552
FTE	0.5 FTE	0.6 FTE
Temporary Staff	6,276	0
Operating Expenses and Capital Outlay Costs	5,273	570
Legal Services (150 hours x \$94.51)	14,177	14,177
Expert Consultants (40 hours x \$60.00)	2,400	2,400
Centrally Appropriated Costs*	9,935	12,200
TOTAL	\$68,522	\$65,899

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

Licensing program costs. The DPO is responsible for establishing the genetic counselor licensing program. This work involves creating procedures and standards, administering and reviewing new license applications and annual renewals; managing external affairs such as outreach and complaints; and representing the program in disciplinary and judicial proceedings.

The fiscal note assumes that new staff will be hired by October 1, 2015, resulting in an increase of 0.5 FTE in the first year and 0.6 FTE in future years. In addition, 350 hours of temporary staff time at a rate of \$17.93 per hour are also included in the first year to handle the initial group of license applications. Other costs include standard operating expenses and capital outlay costs, 150 hours of legal services per year, and 40 hours of expert consultant time to assist the DPO in rulemaking and disciplinary matters.

Disciplinary and criminal proceedings. The bill may also increase workload in the Office of Administrative Courts (OAC) in the DPA and the trial courts in the Judicial Department to hold hearings related to disciplinary matters and criminal charges, 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.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under HB 15-1147*		
Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$4,038	\$4,828
Supplemental Employee Retirement Payments	2,361	3,128
Indirect Costs	3,536	4,244
TOTAL	\$9,935	\$12,200

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

This bill impacts local governments by creating two new misdemeanor offenses. The penalty for a class 2 misdemeanor is 3 to 12 months imprisonment in a county jail, a fine of \$250 to \$1,000, or both. The penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both.

Misdemeanor offenses in county courts. First, the bill may increase workload for district attorneys to prosecute any new offenses. Second, to the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. These impacts are assumed to be minimal.

Denver County Court. The bill results in an increase in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases arising under the bill. Probation services in the Denver County Courts may also experience a minimal increase in workload and revenue to supervise persons convicted under the bill.

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. The bill creates two new misdemeanor offenses concerning the practice of genetic counseling without a license. 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. Given the relatively small number of genetic counselors, the number of cases and convictions under the bill is also assumed to be minimal. No information about the gender or minority status of victims was available for these comparable crimes.

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed. Genetic counselors must be licensed by June 1, 2016.

State Appropriations

For FY 2015-16, the bill requires an appropriations of \$58,586 to DORA from the DPO Cash Fund and an allocation of 0.5 FTE. Of this amount, \$14,177 is reappropriated to the Department of Law.

State and Local Government Contacts

Regulatory Agencies
Personnel and Administration

Law
Counties