



FINAL  
FISCAL NOTE

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

**Drafting Number:** LLS 16-0513  
**Prime Sponsor(s):** Rep. Foote; Duran  
Sen. Scheffel; Cadman

**Date:** July 25, 2016  
**Bill Status:** Signed into Law  
**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** MENTAL HEALTH PROFESSIONAL DISCLOSURE SCHOOL SAFETY

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b>		
<b>State Expenditures</b>	Minimal workload increase.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing minimal increases in workload.		

### Summary of Legislation

Conditional upon federal approval, this bill provides an exception for certain mental health professionals related to the prohibition against disclosing confidential client communications. Under the bill, a specified mental health professional may make a disclosure if his or her client makes an articulable and significant threat to a school or its occupants or exhibits behavior that the professional deems to jeopardize the safety of students, teachers, administrators, or other school personnel. Disclosures may only be made to appropriate school and school district personnel or law enforcement agencies. Information provided to school and school district personnel must remain confidential, regardless of whether the information constitutes an educational record subject to the federal Family Educational Rights and Privacy Act (FERPA). The bill provides immunity from civil actions concerning such disclosures and clarifies that the bill does not impact any statutory duties to warn and protect others.

Within 30 days of the bill's passage, the Department of Human Services is directed to apply for an exception to the federal Health Insurance Portability and Accountability Act (HIPAA) in order to implement the bill, and to notify the Revisor of Statutes of its decision.

### Background

Under current law, mental health professionals may not disclose any confidential communications made by the client or advice given to the client without his or her consent. Exceptions are made in certain circumstances, such as to coordinate care between health care providers, for compliance with a court order, or when the professional believes there is an imminent threat to the health, life, or safety of the client or another person.

The bill applies to the following types of mental health professionals:

- a person licensed as psychologist, clinical social worker, social worker, marriage and family therapist, professional counselor, or addiction counselor;
- a person certified as an addiction counselor;
- a person registered as a psychotherapist, or
- a person registered as a psychologist candidate, marriage and family therapist candidate, or licensed professional counselor candidate.

### **State Expenditures**

This bill is anticipated to increase workload for the Division of Professions and Occupations within the Department of Regulatory Agencies. The Division may receive additional complaints about and request for guidance from mental health professionals and need to update its rules. These impacts are anticipated to be minimal and will not require an increase in appropriations.

Workload will also increase within the Department of Human Services by a minimal amount in order to apply for an exception to HIPAA requirements. This workload can be accomplished within existing appropriations.

### **Local Government Impact**

This bill is expected to increase workload for any city or county-employed mental health professionals (such as those within community health clinics or hospitals) to update rules and procedures and to make disclosures to school district officials as circumstances warrant. These impacts are assumed to be minimal.

### **School District Impact**

Similar to local governments, this bill is expected to increase workload for school districts to update rules and procedures for school-based mental health professionals and to respond to any additional disclosures. These impacts are assumed to be minimal.

Under current law, school districts and Boards of Cooperative Educational Services (BOCES) may submit a separate estimate of fiscal impacts within seven days of a bill's introduction. Estimates submitted by districts or BOCES for this bill can be found on the Legislative Council website at this address: <http://www.colorado.gov/lcs>

### **Effective Date**

The bill was signed into law by the Governor and took effect on May 18, 2016.

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

Cities  
Education  
Information Technology

Corrections  
Human Services  
Regulatory Agencies

Counties  
Local Affairs  
Sheriffs