

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6438**

**BILL NUMBER:** HB 1135

**NOTE PREPARED:** Apr 6, 2013

**BILL AMENDED:** Apr 4, 2013

**SUBJECT:** Midwives.

**FIRST AUTHOR:** Rep. Lehe

**FIRST SPONSOR:** Sen. Patricia Miller

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Health Officer Recording Person in Attendance*- The bill requires the local health officer to make a permanent record of the person in attendance at a birth, and the location of the birth. It includes complications resulting from a home delivery in the definition of "birth problems" for purposes of the birth problems registry.

*Establishes the Midwifery Committee*- The bill establishes the Midwifery Committee (MC) to provide information and recommendations to the Medical Licensing Board (MLB) concerning the certification of a certified direct entry midwife (CDEM).

*Certification of CDEMs*- The bill establishes certification of a CDEM beginning January 1, 2014, and sets qualifications. It requires the MLB to: (1) establish continuing education requirements; (2) develop peer review procedures; and (3) adopt rules concerning liability insurance and the competent practice of CDEMs

*Physician Requirements*- The bill requires a physician to examine a client of a CDEM at least one time during the client's first trimester and one time during the client's third trimester. The bill requires a physician to supervise a CDEM.

*Penalty Provision*- The bill establishes a Class D felony for practicing midwifery without a certificate.

*Protection from Liability*- The bill provides that certain individuals may not be held jointly or severally liable for the acts or omissions of a client's CDEM.

*Culpability Standards-* The bill adds culpability standards to the crimes of practicing medicine or osteopathic medicine and acting as a physician assistant without a license.

*CDEMs Administering Drugs-* The bill allows CDEMs to administer certain prescription drugs only under a physician's order. The bill allows certain individuals to act under the supervision of a CDEM.

**Effective Date:** July 1, 2013.

**Summary of Net State Impact:** (Revised) The Professional Licensing Agency (PLA) would incur additional administrative expenditures. The Midwifery Committee (MC) would have expenditures for various items, including member travel mileage, telephone expense, office supplies, and printing. Cost could be offset by the fees set by the MC for the certification of certified direct entry midwives (CDEMs). The Medical Licensing Board (MLB) may also incur additional expenditures for additional meetings, if necessary, to carry out the provisions of the bill.

**Explanation of State Expenditures:** (Revised) *Health Officer Recording Person in Attendance-* This provision should have a minimal impact on the State Department of Health (SDOH). The SDOH would not have to revise the birth certificate registry fields as the necessary fields are in the registry already.

(Revised) *Establishes the Midwifery Committee (MC)-* The nine-member MC would be appointed by the Governor to advise and propose to the MLB recommendations for the certification of CDEMs.

(Revised) *Medical Licensing Board (MLB)-* The MLB would set the standards for applicants for a CDEM via the North American Registry of Midwives (NARM). The MLB would also set fees, continuing education requirements, and make rules for conduct of midwives, including, insurance and emergency plans of action.

Professional Licensing Agency (PLA)- The PLA would provide the administrative staff to the MC. Need for additional staff would depend on the number of applicants for the license and the workload of current PLA staff with existing professional boards and commissions. As an example only, an additional COMOT III to process licenses would require \$40,707 in expenditures during FY 2014. The amount includes salary, fringe benefits, and indirect costs associated with establishing the position. However, given the lower number of persons that are likely to seek a CDEM, it is likely the PLA would place the new certification within an existing license workgroup.

*Interim Study:* The bill also requires the Health Finance Commission to study issues during the 2013 interim concerning facilitating the availability of liability insurance for certified direct entry midwives licensed under the bill. This provision is expected to have no fiscal impact.

*Penalty Provision:* The bill would require that after July 1, 2014, an individual that knowingly or intentionally practices midwifery without a certificate, as required under the bill, would commit a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

*Protection from Liability- Court Fee Revenue:* This provision may reduce the number of lawsuits that could be brought against certain health care providers with respect to deliveries of babies involving licensed midwives. If fewer civil actions occur and fewer court fees are collected, revenue to the state General Fund would decrease.

*Background-* As of September 2012, 138 nurse midwives were licensed to practice in Indiana. NARM identifies, in their most recent available annual report, that 12 individuals in Indiana maintain a Certified Professional Midwife (CPM) credential. There were 57 CPMs listed in the four states bordering Indiana.

**Explanation of State Revenues:** (Revised) *Certification of CDEMs-* The amount of revenue that would be generated by this proposal would depend on the number persons seeking a CDEM credential. (Presumably, the fees for the certification of direct entry midwives would be set at a level to cover certification expenses.) For example, if the certification fee were set at \$100, which is similar to fees for other health professions, 12 individuals seeking certification would raise approximately \$1,200 in the first year of implementation. A direct entry midwife license would expire after two years. Certification would begin January 1, 2014.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

**Explanation of Local Expenditures:** *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

*Protection from Liability- Court Fee Revenue:* If fewer civil actions occur as a result of the bill, local governments would receive less revenue from civil cost fees and other fees charged at the time of filing a civil suit.

**State Agencies Affected:** Professional Licensing Agency; Department of Correction; State Department of Health.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Professional Licensing Agency, active license count: 9/19/2012; North American Registry of Midwives, *2010 Annual Report*, released 9/2011.

**Fiscal Analyst:** Chris Baker, 317-232-9851.