

First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0488.01 Richard Sweetman

HOUSE BILL 11-1049

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HOUSE SPONSORSHIP

**Barker,**

SENATE SPONSORSHIP

**(None),**

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**House Committees**  
Judiciary

**Senate Committees**

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A BILL FOR AN ACT

101 CONCERNING CRIMINAL USES OF PERSONAL IDENTIFYING  
102 INFORMATION.

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill clarifies certain statutory language describing the offense of identity theft. Falsely claiming the personal identifying information of another person with intent to obtain or maintain employment is added to the list of actions considered as identity theft. To commit identity theft, it is not necessary that a person be aware that the personal identifying

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

information, financial identifying information, or financial device involved in the commission of the offense belongs to another person.

The bill amends certain language describing the elements of the offense of criminal impersonation to require the assumption of a false or fictitious identity or legal capacity under some circumstances and the assumption of a false or fictitious identity or capacity, legal or otherwise, in other circumstances. Using false or fictitious personal identifying information shall constitute the assumption of a false or fictitious identity or capacity for the purposes of charging a person with criminal impersonation.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 18-5-902 (1) (a), (1) (b), (1) (d), and (1) (e),  
3 Colorado Revised Statutes, are amended, and the said 18-5-902 (1) is  
4 further amended BY THE ADDITION OF A NEW PARAGRAPH, to  
5 read:

6 **18-5-902. Identity theft.** (1) A person commits identity theft if  
7 he or she:

8 (a) ~~Knowingly~~ Uses the personal identifying information,  
9 financial identifying information, or financial device of another ~~without~~  
10 ~~permission or lawful authority~~ with the intent to FRAUDULENTLY obtain  
11 cash, credit, property, services, or any other thing of value or to make a  
12 financial payment;

13 (b) ~~Knowingly~~ Possesses the personal identifying information,  
14 financial identifying information, or financial device of another ~~without~~  
15 ~~permission or lawful authority~~, with the intent to use or to aid or permit  
16 some other person to use such information or device to FRAUDULENTLY  
17 obtain cash, credit, property, services, or any other thing of value or to  
18 make a financial payment;

19 (d) ~~Knowingly~~ Possesses the personal identifying information or  
20 financial identifying information of another ~~without permission or lawful~~

1 authority to use in FRAUDULENTLY applying for or completing an  
2 application for a financial device or other extension of credit;

3 (e) ~~Knowingly~~ Uses or possesses the personal identifying  
4 information of another ~~without permission or lawful authority~~ with the  
5 intent to FRAUDULENTLY obtain a government-issued document; or

6 (g) FALSELY CLAIMS THE PERSONAL IDENTIFYING INFORMATION OF  
7 ANOTHER WITH INTENT TO OBTAIN OR MAINTAIN EMPLOYMENT.

8 **SECTION 2.** 18-5-902, Colorado Revised Statutes, is amended  
9 BY THE ADDITION OF A NEW SUBSECTION to read:

10 **18-5-902. Identity theft.** (4) TO COMMIT IDENTITY THEFT AS  
11 DESCRIBED IN SUBSECTION (1) OF THIS SECTION, IT IS NOT NECESSARY  
12 THAT A PERSON BE AWARE THAT THE PERSONAL IDENTIFYING  
13 INFORMATION, FINANCIAL IDENTIFYING INFORMATION, OR FINANCIAL  
14 DEVICE INVOLVED IN THE OFFENSE BELONGS TO ANOTHER PERSON. THIS  
15 ELEMENT IS ONE OF STRICT LIABILITY.

16 **SECTION 3.** 18-5-113 (1), Colorado Revised Statutes, is  
17 amended, and the said 18-5-113 is further amended BY THE ADDITION  
18 OF A NEW SUBSECTION, to read:

19 **18-5-113. Criminal impersonation.** (1) A person commits  
20 criminal impersonation if he OR SHE knowingly:

21 (a) Assumes a false or fictitious identity or LEGAL capacity, and  
22 in such identity or capacity he OR SHE:

23 ~~(a)~~ (I) Marries, or pretends to marry, or to sustain the marriage  
24 relation toward another without the connivance of the latter; ~~or~~

25 ~~(b)~~ (II) Becomes bail or surety for a party in an action or  
26 proceeding, civil or criminal, before a court or officer authorized to take  
27 the bail or surety; or

1           (e) (III) Confesses a judgment, or subscribes, verifies, publishes,  
2 acknowledges, or proves a written instrument which by law may be  
3 recorded, with the intent that the same may be delivered as true; or

4           (b) ASSUMES A FALSE OR FICTITIOUS IDENTITY OR CAPACITY,  
5 LEGAL OR OTHER, AND IN SUCH IDENTITY OR CAPACITY HE OR SHE:

6           (d) (I) ~~Does~~ PERFORMS an act ~~which~~ THAT, if done by the person  
7 falsely impersonated, might subject such person to an action or special  
8 proceeding, civil or criminal, or to liability, charge, forfeiture, or penalty;  
9 or

10           (e) (II) ~~Does~~ PERFORMS any other act with intent to unlawfully  
11 gain a benefit for himself, HERSELF, or another or to injure or defraud  
12 another.

13           (3) FOR THE PURPOSES OF SUBSECTION (1) OF THIS SECTION, USING  
14 FALSE OR FICTITIOUS PERSONAL IDENTIFYING INFORMATION SHALL  
15 CONSTITUTE THE ASSUMPTION OF A FALSE OR FICTITIOUS IDENTITY OR  
16 CAPACITY.

17           **SECTION 4. Act subject to petition - effective date.** This act  
18 shall take effect at 12:01 a.m. on the day following the expiration of the  
19 ninety-day period after final adjournment of the general assembly (August  
20 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a  
21 referendum petition is filed pursuant to section 1 (3) of article V of the  
22 state constitution against this act or an item, section, or part of this act  
23 within such period, then the act, item, section, or part shall not take effect  
24 unless approved by the people at the general election to be held in  
25 November 2012 and shall take effect on the date of the official  
26 declaration of the vote thereon by the governor.