

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0488.01 Richard Sweetman

HOUSE BILL 11-1049

HOUSE SPONSORSHIP

Barker,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CRIMINAL USES OF PERSONAL IDENTIFYING**
102 **INFORMATION.**

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.*

HOUSE
Amended 2nd Reading
February 8, 2011

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.

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

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

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

7 (a) ~~Knowingly~~ Uses ~~the~~ personal identifying information,
8 financial identifying information, or A financial device ~~of another~~ without
9 permission or lawful authority, with the intent to obtain cash, credit,
10 property, services, or any other thing of value or to make a financial
11 payment, IF THE INFORMATION OR DEVICE IS THAT OF ANOTHER;

12 (b) ~~Knowingly~~ Possesses ~~the~~ personal identifying information,
13 financial identifying information, or A financial device ~~of another~~ without
14 permission or lawful authority, with the intent to use or to aid or permit
15 some other person to use such information or device to obtain cash,
16 credit, property, services, or any other thing of value or to make a
17 financial payment, IF THE INFORMATION OR DEVICE IS THAT OF ANOTHER;

18 (c) ~~With the intent to defraud,~~ Falsely makes, completes, alters, or
19 utters a written instrument or financial device containing any personal
20 identifying information or financial identifying information of another,

1 WITH THE INTENT TO DEFRAUD, IF THE INFORMATION OR DEVICE IS THAT
2 OF ANOTHER;

3 (d) ~~Knowingly~~ Possesses ~~the~~ personal identifying information or
4 financial identifying information ~~of another~~ without permission or lawful
5 authority, WITH THE INTENT to use THE INFORMATION in applying for or
6 completing an application for a financial device or other extension of
7 credit, IF THE INFORMATION IS THAT OF ANOTHER; OR

8 (e) ~~Knowingly~~ Uses or possesses ~~the~~ personal identifying
9 information ~~of another~~ without permission or lawful authority, with the
10 intent to USE THE INFORMATION TO obtain a government-issued document,
11 ~~or~~ IF THE INFORMATION IS THAT OF ANOTHER.

12 (1.5) TO COMMIT IDENTITY THEFT AS DESCRIBED IN SUBSECTION
13 (1) OF THIS SECTION, A PERSON NEED NOT BE AWARE THAT THE PERSONAL
14 IDENTIFYING INFORMATION, FINANCIAL IDENTIFYING INFORMATION, OR
15 FINANCIAL DEVICE IS THAT OF ANOTHER. THIS ELEMENT IS ONE OF STRICT
16 LIABILITY.

17 **SECTION 2.** 18-5-113 (1), Colorado Revised Statutes, is
18 amended, and the said 18-5-113 is further amended BY THE ADDITION
19 OF A NEW SUBSECTION, to read:

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

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

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

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

1 the bail or surety; or

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

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

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

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

14 (3) FOR THE PURPOSES OF SUBSECTION (1) OF THIS SECTION, USING
15 FALSE OR FICTITIOUS PERSONAL IDENTIFYING INFORMATION, AS DEFINED
16 IN SECTION 18-5-901 (13), SHALL CONSTITUTE THE ASSUMPTION OF A
17 FALSE OR FICTITIOUS IDENTITY OR CAPACITY.

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