

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 3, 2011
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB11-1049 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the amending clause and
2 substitute:

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

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

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

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

20 (c) ~~With the intent to defraud,~~ Falsely makes, completes, alters, or
21 utters a written instrument or financial device containing any personal
22 identifying information or financial identifying information of another,
23 WITH THE INTENT TO DEFRAUD, IF THE INFORMATION OR DEVICE IS THAT
24 OF ANOTHER;

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

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

10 (1.5) TO COMMIT IDENTITY THEFT AS DESCRIBED IN SUBSECTION
11 (1) OF THIS SECTION, A PERSON NEED NOT BE AWARE THAT THE PERSONAL
12 IDENTIFYING INFORMATION, FINANCIAL IDENTIFYING INFORMATION, OR
13 FINANCIAL DEVICE IS THAT OF ANOTHER. THIS ELEMENT IS ONE OF STRICT
14 LIABILITY.

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

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

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

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

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

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

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

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

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

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

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

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