



FINAL
FISCAL NOTE

Drafting Number: LLS 11-0488**Date:** August 11, 2011**Prime Sponsor(s):** Rep. Barker
Sen. Roberts**Bill Status:** Postponed Indefinitely**Fiscal Analyst:** Jessika Shipley (303-866-3528)

TITLE: CONCERNING CRIMINAL USES OF PERSONAL IDENTIFYING INFORMATION.

Summary of Legislation

The bill, which was postponed indefinitely by the Senate Judiciary Committee on April 20, 2011, clarified statutory language describing the criminal offense of identity theft. The bill clarified that to commit identity theft, an individual need not have been aware that the personal identifying information, financial identifying information, or financial device belongs to another person.

The offense of criminal impersonation was amended with regard to the assumption of a false or fictitious identity or capacity. Using false or fictitious personal identifying information would have constituted the assumption of a false or fictitious identity or capacity for the purpose of committing criminal impersonation.

Background. On October 25, 2010, the Colorado Supreme Court issued an opinion in the case of *Montes-Rodriguez v. People*, in which the court determined that an individual must know that he or she is using another person's personal identifying information, financial identifying information, or a financial device to be guilty of criminal impersonation. District attorneys were prosecuting criminal impersonation and identity theft cases based on the assumption that the defendant did not need to be aware that he or she was using identifying information that belonged to a different person.

Assessment

This bill would have brought the law into conformance with common prosecutorial practice prior to the *Montes-Rodriguez* decision. It was not expected to increase or decrease identity theft and criminal impersonation case filings or convictions from their pre-decision levels. As such, the bill was assessed as having no fiscal impact.

Departments Contacted

Corrections

Judicial