

Colorado Legislative Council Staff
STATE and LOCAL
and STATUTORY PUBLIC ENTITY
REVISED CONDITIONAL FISCAL IMPACT

(replaces fiscal impact dated February 3, 2005)

Drafting Number: LLS 05-0751
Prime Sponsor(s): Sen. Grossman
 Rep. Paccione

Date: March 23, 2005
Bill Status: Senate Appropriations
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TITLE: CONCERNING IDENTITY THEFT.

Fiscal Impact Summary	FY 2005/06	FY 2006/07
State Revenues General Fund		
State Expenditures General Fund, Cash Fund, Cash Fund Exempt, and Federal Fund	Potential Increase	
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: Upon signature of the Governor.		
Appropriation Summary for FY 2005/06: Additional appropriations may be required.		
Local Government Impact: Requires local governments, as data collectors, to incur notification costs, and potential litigation costs, in the event of a security breach of systems containing personal information.		

Summary of Legislation

This engrossed bill creates the Credit Report Security Freeze Act which specifies procedures whereby a consumer may request a consumer reporting agency to place, temporarily lift, and remove a security freeze on the consumer's credit report. The bill specifies conditions whereby the reporting agency must notify the consumer when an attempt has been made by a third party to access the credit report. The bill specifies certain exemptions from the security freeze restrictions. The bill requires all consumers who receive a summary of rights under the Fair Credit Reporting Act or state law, to be notified of the right to obtain a security freeze. If a reporting agency violates the security freeze, the consumer is entitled to: notification by the agency; file a complaint with the Federal Trade Commission and the State Attorney General; and file a civil action to recover injunctive relief and a civil penalty of up to \$10,000 for each violation plus damages and costs.

The bill also creates the Security Breach Information Act which requires a data collector that utilizes personal information of Colorado residents to expediently notify the residents whenever the security of the data collector's data system has been breached. The bill defines "data collector" and "personal information", specifies certain methods of notification, and specifies methods of acceptable

substitute notice under certain conditions. A person injured by a violation of the Act has a private right of action against the data collector for damages and injunctive relief.

State Expenditures

Credit Report Security Freeze Act. The act entitles a consumer to file a complaint with the Attorney General if a reporting agency violates the security freeze. The number of complaints are anticipated to be minimal and may be absorbed by the Department of Law within existing budgetary resources.

Security Breach Information Act. A state agency, as a data collector that owns or uses personal information concerning a Colorado resident, will incur additional costs to notify the resident(s) in the event of a breach of the security of the agency's system data. The bill requires written or electronic notice, subject to certain specified limitations, whereby the bill authorizes the use of less costly email, conspicuous web-site postings, or notifications to major statewide media.

Several state agencies and institutions of higher education would be defined as a data collector that deals with non-public personal information. Some examples include:

- State Treasury - 700,000 records for unclaimed properties;
- Regulatory Agencies - 1,000,000 active and inactive records regarding registrations, real estate, insurance, securities, civil rights, and human resources;
- Health Care Policy - 1,381,359 records for Medicaid and Children's Basic Health Plan recipients, and past clients and applicants;
- Revenue - 4,500,000 records for motor vehicles registrations, income tax returns, and other registrations;
- Natural Resources - hunting and fishing licenses; park passes; and mineral and geology reports, permits, and enforcement records; and
- Public Health and Environment - 4,000,000 birth records and 2,000,000 death records.

The amount of any additional costs is dependent upon the number of residents to be notified and the method of notification employed. For example, within the specified limitations, written notice (postage and materials only) to 495,000 residents would cost approximately \$232,650. These costs may affect the state's General Fund, cash funds, cash funds exempt, and/or federal funds. Additional appropriations may be required in the event these costs cannot be absorbed within existing budgetary resources.

The bill also grants any injured person a private right of action against the data collector for damages and injunctive relief which may require an agency to incur significant additional legal counsel and litigation costs.

As a result, the bill may encourage a state agency, as a data collector, to install security enhancements to reduce or eliminate the risk of a security breach. However, the costs to install security enhancements may also be significant.

Local Government Impact

The bill will affect any local government, as a data collector, in the same manner as state agencies.

Public Employees' Retirement Association (PERA) Impact

This bill will affect PERA, as a data collector, in the same manner as state or local government agencies.

State Appropriations

Additional appropriations may be required during FY 2005-06 in the event of a security breach and subsequent notification to affected Colorado residents.

Departments Contacted

Agriculture	Corrections	Education	Human Services
Higher Education	Health Care Policy	Judicial	Labor
Law	Military Affairs	Natural Resources	PERA
Personnel	Public Defender	Public Health	Public Safety
Regulatory Agencies	Revenue	State	Transportation
Treasury	Local Affairs		