

Colorado Legislative Council Staff Fiscal Note

NO FISCAL IMPACT

Note: This fiscal note is written pursuant to Joint Rule 22 (b)(c) and reflects strike below Amendment L.002,

Drafting Number: LLS 11-0488

Date: January 31, 2011

Prime Sponsor(s): Rep. Barker

Bill Status: House Judiciary

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TITLE: CONCERNING CRIMINAL USES OF PERSONAL IDENTIFYING INFORMATION.

Summary of Legislation

This bill clarifies statutory language describing the criminal offense of identity theft. To commit identity theft, an individual need not be aware that the personal identifying information, financial identifying information, or financial device belongs to another person.

The offense of criminal impersonation is amended with regard to the assumption of a false or fictitious identity or capacity. Using false or fictitious personal identifying information constitutes the assumption of a false or fictitious identity or capacity for the purpose of committing criminal impersonation. The bill takes effect August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.

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

Departments Contacted

Corrections

Judicial