

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0604.01 Michael Dohr x4347

HOUSE BILL 12-1101

HOUSE SPONSORSHIP

Barker,

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CULPABLE MENTAL STATE FOR IDENTITY THEFT.**

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 offenses of identity theft. To commit identity theft, it is not necessary that a person be aware that the personal identifying information, financial identifying information, or financial device involved in the commission of the offense belongs to another person.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-5-902 , **amend** (1)
3 introductory portion, (1) (a), (1) (b), (1) (c), (1) (d), and (1) (e); and **add**
4 (1.5) and (1.7) as follows:

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

7 (a) **KNOWINGLY:**

8 (a) (I) ~~Knowingly~~ Uses ~~the~~ personal identifying information,
9 financial identifying information, or A financial device ~~of another~~ without
10 permission or lawful authority, with the intent to obtain cash, credit,
11 property, services, or any other thing of value or to make a financial
12 **payment;**

13 (b) (II) ~~Knowingly~~ Possesses ~~the~~ personal identifying information,
14 financial identifying information, or A financial device ~~of another~~ without
15 permission or lawful authority, with the intent to use or to aid or permit
16 some other person to use such information or device to obtain cash,
17 credit, property, services, or any other thing of value or to make a
18 **financial payment;**

19 (c) (III) ~~With the intent to defraud,~~ Falsely makes, completes,
20 alters, or utters a written instrument or financial device containing any
21 personal identifying information or financial identifying information ~~of~~
22 ~~another~~ WITH THE INTENT TO **DEFRAUD;**

23 (d) (IV) ~~Knowingly~~ Possesses ~~the~~ personal identifying
24 information or financial identifying information ~~of another~~ without
25 permission or lawful authority, WITH THE INTENT to use THE INFORMATION
26 in applying for or completing an application for a financial device or

1 other extension of credit; OR

2 (e) (V) Knowingly Uses or possesses the personal identifying
3 information of another without permission or lawful authority, with the
4 intent to USE THE INFORMATION TO obtain a government-issued document;
5 or AND

6 (b) THE INFORMATION OR DEVICE IS THAT OF ANOTHER.

7 (1.5) THE ELEMENT SET FORTH IN PARAGRAPH (b) OF SUBSECTION
8 (1) IS ONE OF STRICT LIABILITY.

9 (1.7) THIS SECTION SHALL NOT APPLY TO USE OR POSSESSION IN
10 COMPLIANCE WITH OR IN CONNECTION WITH A PURPOSE PERMITTED UNDER
11 THE FEDERAL "FAIR CREDIT REPORTING ACT", AS AMENDED, 15 U.S.C.
12 1681 ET SEQ.; THE FEDERAL "FAIR AND ACCURATE CREDIT TRANSACTIONS
13 ACT OF 2003", 15 U.S.C. 1601; THE FEDERAL "DRIVER'S PRIVACY
14 PROTECTION ACT OF 1994", 18 U.S.C. 2721, ET SEQ.; THE FEDERAL
15 "GRAMM-LEACH-BLILEY ACT", 15 U.S.C. 6801; OR THE FEDERAL
16 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996",
17 42 U.S.C. 201.

18 **SECTION 2. 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 8, 2012, if adjournment sine die is on May 9, 2012); 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.