

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 26-0832.01 Richard Sweetman x4333

HOUSE BILL 26-1283

HOUSE SPONSORSHIP

Ricks and Joseph,

SENATE SPONSORSHIP

Marchman,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS RELATING TO THE CONFISCATION OF**
102 **INDIVIDUALS' IDENTIFICATION DOCUMENTS.**

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://leg.colorado.gov>.)

With certain exceptions, the bill prohibits an employer or an employer's agent from demanding, confiscating, retaining, or otherwise requiring an individual to surrender the individual's government-issued identification card.

The bill states that an individual commits criminal confiscation of a government-issued identification card if the individual knowingly takes

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

into possession or control, or attempts to take into possession or control, another individual's government-issued identification card without lawful authority. Criminal confiscation of a government-issued identification card is a class 2 misdemeanor.

An individual commits a bias-motivated crime if, with the intent to intimidate or harass another individual, in whole or in part, because of that individual's actual or perceived race, color, religion, ancestry, national origin, physical or mental disability, sexual orientation, or transgender identity, the individual:

- Violates the bill's prohibitions; or
- Provides, or threatens to provide, an individual's government-issued identification or personal documents to federal immigration authorities.

Such a bias-motivated crime is a class 1 misdemeanor, and a victim may seek additional remedies available under law.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Every person has the inalienable right to recognition before the
5 law, and access to legal identity is foundational to the protection of
6 individual rights, participation in civic life, and equal protection under the
7 law;

8 (b) International human rights authorities, including the United
9 Nations in its Global Compact for Safe, Orderly and Regular Migration,
10 adopted by the United Nations General Assembly in 2018, have
11 recognized that ensuring migrants have proof of legal identity and
12 adequate documentation is essential to safe, orderly, and regular
13 migration and to the protection of human dignity;

14 (c) A person deprived of access to their identification documents
15 may become effectively invisible to legal and administrative systems
16 designed to safeguard rights, which can hinder access to health care,
17 education, justice, lawful employment, banking services, and other

1 essential services;

2 (d) For migrant workers, including documented migrants,
3 possession and control of personal identification documents is critical to
4 maintaining lawful status, accessing protections, reporting abuse,
5 engaging in contractual relationships, and participating fully in economic
6 life;

7 (e) The confiscation, retention, or threatened disclosure to federal
8 immigration enforcement agencies of identification documents may
9 threaten a person's livelihood, legal stability, and very ability to exist and
10 function within the protections of the law and may create conditions of
11 fear, isolation, dependency, or vulnerability to exploitation, forced labor,
12 or human trafficking;

13 (f) Such practices may disproportionately impact immigrant
14 communities and women working in industries where economic
15 insecurity, language barriers, or power imbalances heighten vulnerability;
16 and

17 (g) Colorado has a compelling interest in:

18 (I) Ensuring that employment verification practices are conducted
19 solely for lawful purposes, are transparent, and are consistent with state
20 and federal law; and

21 (II) Preventing arbitrary, coercive, retaliatory, or discriminatory
22 conduct involving identification documents.

23 (2) Therefore, the general assembly declares that it is necessary to
24 safeguard the rights, safety, and dignity of all persons within the state by
25 prohibiting the unlawful confiscation or retention of identification
26 documents, deterring intimidation and harassment, and affirming that no
27 person in Colorado should be rendered vulnerable through the unlawful

1 control or confiscation of their identification documents.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 8-2-124.5 as
3 follows:

4 **8-2-124.5. Identification documents - retention by employers**
5 **prohibited - definition.**

6 (1) (a) EXCEPT AS OTHERWISE DESCRIBED IN THIS SECTION AND
7 SECTION 8-2-125 (1)(c), AN EMPLOYER OR AN EMPLOYER'S AGENT SHALL
8 NOT DEMAND, CONFISCATE, RETAIN, OR OTHERWISE REQUIRE AN
9 INDIVIDUAL WHO IS AN EMPLOYEE OR APPLICANT FOR EMPLOYMENT TO
10 SURRENDER THE EMPLOYEE'S OR APPLICANT'S GOVERNMENT-ISSUED
11 IDENTIFICATION CARD.

12 (b) AN EMPLOYER OR EMPLOYER'S AGENT MAY:

13 (I) REQUEST AND TEMPORARILY RETAIN AN INDIVIDUAL'S
14 GOVERNMENT-ISSUED IDENTIFICATION CARD FOR THE PURPOSE OF
15 VERIFYING THE INDIVIDUAL'S EMPLOYMENT ELIGIBILITY STATUS THROUGH
16 COMPLETION OF THE EMPLOYMENT ELIGIBILITY VERIFICATION FORM I-9,
17 OR ITS SUCCESSOR FORM, FOR EMPLOYMENT IN THE UNITED STATES;

18 (II) RETAIN AN INDIVIDUALS' GOVERNMENT-ISSUED
19 IDENTIFICATION CARD ONLY FOR AS LONG AS IS NECESSARY TO VERIFY THE
20 INDIVIDUAL'S EMPLOYMENT ELIGIBILITY AND MAKE A COPY OF THE CARD,
21 AND IN NO CASE FOR MORE THAN TEN HOURS; AND

22 (III) RETAIN A COPY OF AN INDIVIDUAL'S GOVERNMENT-ISSUED
23 IDENTIFICATION CARD IN THE EMPLOYER'S RECORDS.

24 (2) (a) WHEN AN EMPLOYER VERIFIES AN INDIVIDUAL'S
25 EMPLOYMENT ELIGIBILITY, THE EMPLOYER SHALL NOTIFY THE INDIVIDUAL
26 OF THE PROHIBITION DESCRIBED IN SUBSECTION (1) OF THIS SECTION. THE
27 NOTIFICATION MUST BE:

- 1 (I) IN WRITING;
- 2 (II) IN ENGLISH AND ANY OTHER LANGUAGE SPOKEN BY A
3 SIGNIFICANT PORTION OF THE WORKPLACE;
- 4 (III) IN THE INDIVIDUAL'S PRIMARY LANGUAGE, IF THE EMPLOYER
5 KNOWS THE INDIVIDUAL'S PRIMARY LANGUAGE; AND
- 6 (IV) ACKNOWLEDGED BY THE INDIVIDUAL.
- 7 (b) THE EMPLOYER SHALL RETAIN A RECORD OF THE NOTIFICATION
8 AND ACKNOWLEDGMENT IN THE EMPLOYER'S EMPLOYMENT RECORDS.
- 9 (3) NOTHING IN THIS SECTION PROHIBITS AN EMPLOYER FROM
10 RETAINING A GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT IF THE
11 RETENTION IS:
- 12 (a) REQUIRED OR PERMITTED BY STATE OR FEDERAL LAW OR
13 REGULATION, INCLUDING FOR THE PURPOSE OF VERIFYING AN INDIVIDUAL'S
14 EMPLOYMENT ELIGIBILITY; OR
- 15 (b) PERFORMED PURSUANT TO A SIGNED JUDICIAL WARRANT.
- 16 (4) AN EMPLOYER THAT KNOWINGLY VIOLATES SUBSECTION (1) OF
17 THIS SECTION COMMITS CRIMINAL POSSESSION OF AN IDENTIFICATION
18 DOCUMENT, AS DESCRIBED IN SECTION 18-5-903.5.
- 19 (5) AS USED IN THIS SECTION, "GOVERNMENT-ISSUED
20 IDENTIFICATION CARD" HAS THE MEANING SET FORTH IN SECTION 8-2-125
21 (3)(c).

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23 **SECTION 3.** In Colorado Revised Statutes, 18-5-903.5, **amend**
24 (1) and (2)(a); and **add** (3) as follows:

25 **18-5-903.5. Criminal possession of an identification document**
26 **- bias-motivated crime enforcement - civil actions.**

27 (1) A person commits criminal possession of an identification

1 document if the person knowingly ~~has in his or her possession or under~~
2 ~~his or her control~~ CONFISCATES OR POSSESSES OR CONTROLS another
3 person's actual driver's license, actual government-issued identification
4 card, actual social security card, or actual passport ~~knowing that he or she~~
5 ~~does so~~ without permission or lawful authority.

6 (2) (a) EXCEPT AS DESCRIBED IN SECTION 18-9-121, criminal
7 possession of one or more identification documents issued to the same
8 ~~person~~ INDIVIDUAL is a class 2 misdemeanor.

9 (3) AN INDIVIDUAL WHO IS HARMED BY A PERSON'S COMMISSION
10 OF THE OFFENSE DESCRIBED IN THIS SECTION MAY BRING A CIVIL ACTION
11 TO RECOVER ANY DAMAGES CAUSED BY THE PERSON'S COMMISSION OF THE
12 OFFENSE.

13 **SECTION 4.** In Colorado Revised Statutes, 18-9-121, **amend** (2)
14 and (3) as follows:

15 **18-9-121. Bias-motivated crimes - legislative declaration.**

16 (2) A person commits a bias-motivated crime if, with the intent to
17 intimidate or harass another person, in whole or in part, because of that
18 person's actual or perceived race, color, religion, ancestry, national origin,
19 physical or mental disability, sexual orientation, or transgender identity,
20 the person:

21 (a) Knowingly causes bodily injury to another person; ~~or~~

22 (b) By words or conduct, knowingly places another person in fear
23 of imminent lawless action directed at that person or that person's
24 property and such words or conduct are likely to produce bodily injury to
25 that person or damage to that person's property; ~~or~~

26 (c) Knowingly causes damage to or destruction of the property of
27 another person;

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(d) COMMITS CRIMINAL POSSESSION OF AN IDENTIFICATION DOCUMENT, AS DESCRIBED IN SECTION 18-5-903.5; OR

(e) PROVIDES, OR THREATENS TO PROVIDE, AN INDIVIDUAL'S GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT TO FEDERAL IMMIGRATION AUTHORITIES, EXCEPT WHERE OTHERWISE REQUIRED OR PERMITTED UNDER STATE OR FEDERAL LAW.

(3) Commission of a bias-motivated crime as described in ~~paragraph (b) or (c) of subsection (2)~~ SUBSECTIONS (2)(b) TO (2)(f) of this section is a class 1 misdemeanor. Commission of a bias-motivated crime as described in ~~paragraph (a) of subsection (2)~~ SUBSECTION (2)(a) of this section is a class 5 felony; except that commission of a bias-motivated crime as described in ~~said paragraph (a)~~ SUBSECTION (2)(a) OF THIS SECTION is a class 4 felony if the offender is physically aided or abetted by one or more other persons during the commission of the offense.

SECTION 5. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 6. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.