

CHAPTER 393

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 04-1311

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AN ACT**CONCERNING IDENTITY THEFT.**

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

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 72.3**Prohibiting Inclusion of Social Security Number**

24-72.3-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "PUBLIC ENTITY" MEANS AN AGENCY, DEPARTMENT, BOARD, DIVISION, BUREAU, COMMISSION, COUNCIL, AUTHORITY, SPECIAL DISTRICT, OR POLITICAL SUBDIVISION OF THE STATE OR A LOCAL GOVERNMENT.

24-72.3-102. Prohibition - inclusion of social security number- requiring social security number over the phone, internet, or mail - exceptions. (1) A PUBLIC ENTITY SHALL NOT ISSUE A LICENSE, PERMIT, PASS, OR CERTIFICATE THAT CONTAINS THE HOLDER'S SOCIAL SECURITY NUMBER, UNLESS THE ISSUING AUTHORITY DETERMINES INCLUSION OF THE SOCIAL SECURITY NUMBER IS NECESSARY TO FURTHER THE PURPOSE OF THE LICENSE, PASS, OR CERTIFICATE OR INCLUSION IS REQUIRED BY FEDERAL OR STATE LAW.

(2) A PUBLIC ENTITY SHALL NOT REQUEST A PERSON'S SOCIAL SECURITY NUMBER

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OVER THE PHONE, INTERNET, OR VIA MAIL UNLESS THE PUBLIC ENTITY DETERMINES RECEIVING THE SOCIAL SECURITY NUMBER IS REQUIRED BY FEDERAL LAW OR IS ESSENTIAL TO THE PROVISION OF SERVICES BY THE PUBLIC ENTITY.

SECTION 2. Part 7 of article 1 of title 6, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

6-1-712. Disposal of personal identifying documents - policy. (1) EACH PUBLIC AND PRIVATE ENTITY IN THE STATE THAT USES DOCUMENTS DURING THE COURSE OF BUSINESS THAT CONTAIN PERSONAL IDENTIFYING INFORMATION SHALL DEVELOP A POLICY FOR THE DESTRUCTION OR PROPER DISPOSAL OF PAPER DOCUMENTS CONTAINING PERSONAL IDENTIFYING INFORMATION.

(2) FOR THE PURPOSES OF THIS SECTION, "PERSONAL IDENTIFYING INFORMATION" MEANS: A SOCIAL SECURITY NUMBER; A PERSONAL IDENTIFICATION NUMBER; A PASSWORD; A PASS CODE; AN OFFICIAL STATE OR GOVERNMENT-ISSUED DRIVER'S LICENSE OR IDENTIFICATION CARD NUMBER; A GOVERNMENT PASSPORT NUMBER; BIOMETRIC DATA; AN EMPLOYER, STUDENT, OR MILITARY IDENTIFICATION NUMBER; OR A FINANCIAL TRANSACTION DEVICE.

(3) A PUBLIC ENTITY THAT IS MANAGING ITS RECORDS IN COMPLIANCE WITH PART 1 OF ARTICLE 80 OF TITLE 24, C.R.S., SHALL BE DEEMED TO HAVE MET ITS OBLIGATIONS UNDER SUBSECTION (1) OF THIS SECTION.

(4) UNLESS AN ENTITY SPECIFICALLY CONTRACTS WITH A RECYCLER OR DISPOSAL FIRM FOR DESTRUCTION OF DOCUMENTS THAT CONTAIN PERSONAL IDENTIFYING INFORMATION, NOTHING HEREIN SHALL REQUIRE A RECYCLER OR DISPOSAL FIRM TO VERIFY THAT THE DOCUMENTS CONTAINED IN THE PRODUCTS IT RECEIVES FOR DISPOSAL OR RECYCLING HAVE BEEN PROPERLY DESTROYED OR DISPOSED OF AS REQUIRED BY THIS SECTION.

SECTION 3. 24-72-204 (2) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal.

(2) (a) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(VII) ELECTRONIC MAIL ADDRESSES PROVIDED BY A PERSON TO AN AGENCY, INSTITUTION, OR POLITICAL SUBDIVISION OF THE STATE FOR THE PURPOSES OF FUTURE ELECTRONIC COMMUNICATIONS TO THE PERSON FROM THE AGENCY, INSTITUTION, OR POLITICAL SUBDIVISION.

SECTION 4. Part 1 of article 3 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-3-129. Prohibition - display of social security number - insurance companies. (1) AN INSURED MAY REQUIRE THAT AN INSURANCE COMPANY OR INSURER DOING BUSINESS IN COLORADO NOT DISPLAY THE INSURED'S SOCIAL SECURITY NUMBER ON HIS OR HER INSURANCE IDENTIFICATION CARD OR PROOF OF

INSURANCE CARD. IF AN INSURED MAKES THE REQUEST, THE INSURANCE COMPANY OR INSURER SHALL REISSUE THE INSURED AN INSURANCE IDENTIFICATION CARD OR PROOF OF INSURANCE CARD THAT DOES NOT DISPLAY THE INSURED'S SOCIAL SECURITY NUMBER.

(2) AFTER JANUARY 1, 2006, UPON ISSUANCE OR RENEWAL OF AN INSURANCE POLICY, AN INSURANCE COMPANY OR INSURER DOING BUSINESS IN COLORADO SHALL NOT ISSUE AN INSURANCE IDENTIFICATION CARD OR PROOF OF INSURANCE CARD THAT DISPLAYS THE INSURED'S SOCIAL SECURITY NUMBER.

SECTION 5. Part 1 of article 5 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-5-117. Unlawful possession of personal identifying information. (1) A PERSON SHALL NOT POSSESS THE PERSONAL IDENTIFYING INFORMATION OF ANOTHER PERSON WITH THE INTENT TO USE THE INFORMATION, OR TO AID OR PERMIT ANOTHER TO USE THE INFORMATION, TO UNLAWFULLY GAIN A BENEFIT FOR HIMSELF OR HERSELF OR ANOTHER PERSON, OR TO INJURE OR DEFRAUD ANOTHER PERSON.

(2) UNLAWFUL POSSESSION OF PERSONAL IDENTIFYING INFORMATION IS A CLASS 1 MISDEMEANOR.

(3) AS USED IN THIS SECTION, "PERSONAL IDENTIFYING INFORMATION" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 6-1-712 (2), C.R.S., BUT SHALL NOT INCLUDE A FINANCIAL TRANSACTION DEVICE AS DEFINED IN SECTION 18-5-701 (3).

SECTION 6. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of Section 5 of this act shall apply to offenses committed on or after the applicable effective date of this act.

Approved: June 4, 2004