

## CHAPTER 326

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**CRIMINAL LAW AND PROCEDURE**

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**SENATE BILL 09-093**

BY SENATOR(S) Williams, Heath, King K., Boyd, Brophy, Cadman, Foster, Gibbs, Groff, Kopp, Lundberg, Mitchell, Penry, Renfroe, Romer, Schultheis, Schwartz, Shaffer B., Tochtrop;  
also REPRESENTATIVE(S) Marostica, Middleton, Rice, Roberts, Apuan, Baumgardner, Gardner B., Gardner C., Gerou, Green, Kerr J., King S., McFadyen, Primavera, Priola, Schafer S., Stephens, Summers, Todd, Vigil.

**AN ACT****CONCERNING IDENTITY THEFT.**

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

**SECTION 1.** 18-5-902 (1) (a), (1) (f), and (3), Colorado Revised Statutes, are amended to read:

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

(a) Knowingly uses the personal identifying information, financial identifying information, or financial device of another without permission or lawful authority WITH THE INTENT to obtain cash, credit, property, services, or any other thing of value or to make a financial payment;

~~(f) Attempts, conspires with another, or solicits another to commit any of the acts set forth in paragraphs (a) to (e) of this subsection (1).~~

(3) The court shall be required to sentence the defendant to the department of corrections for a term of at least the minimum of the presumptive range and may sentence the defendant to a maximum of twice the presumptive range if:

(a) The defendant is convicted of identity theft OR OF ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT IDENTITY THEFT; and

(b) The defendant has a prior conviction for a violation of this part 9 or a prior conviction for an offense committed in any other state, the United States, or any other territory subject to the jurisdiction of the United States that would constitute

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

a violation of this part 9 if committed in this state, OR FOR ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT A VIOLATION OF THIS PART 9 OR FOR ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT AN OFFENSE IN ANOTHER JURISDICTION THAT WOULD CONSTITUTE A VIOLATION OF THIS PART 9 IF COMMITTED IN THIS STATE.

**SECTION 2.** Part 9 of article 5 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**18-5-903.5. Criminal possession of an identification document.** (1) A PERSON COMMITS CRIMINAL POSSESSION OF AN IDENTIFICATION DOCUMENT IF THE PERSON KNOWINGLY HAS IN HIS OR HER POSSESSION OR UNDER HIS OR HER CONTROL ANOTHER PERSON'S ACTUAL DRIVER'S LICENSE, ACTUAL GOVERNMENT-ISSUED IDENTIFICATION CARD, ACTUAL SOCIAL SECURITY CARD, OR ACTUAL PASSPORT, KNOWING THAT HE OR SHE DOES SO WITHOUT PERMISSION OR LAWFUL AUTHORITY.

(2) (a) CRIMINAL POSSESSION OF ONE OR MORE IDENTIFICATION DOCUMENTS ISSUED TO THE SAME PERSON IS A CLASS 1 MISDEMEANOR.

(b) CRIMINAL POSSESSION OF TWO OR MORE IDENTIFICATION DOCUMENTS, OF WHICH AT LEAST TWO ARE ISSUED TO DIFFERENT PERSONS, IS A CLASS 6 FELONY.

**SECTION 3.** 16-5-401 (4.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**16-5-401. Limitation for commencing criminal proceedings and juvenile delinquency proceedings.** (4.5) The period within which a prosecution must be commenced shall begin to run upon discovery of the criminal act or the delinquent act for:

(m.5) OFFENSES RELATING TO IDENTITY THEFT, PURSUANT TO PART 9 OF ARTICLE 5 OF TITLE 18, C.R.S.;

**SECTION 4.** 18-17-103 (5) (b) (IV), Colorado Revised Statutes, is amended to read:

**18-17-103. Definitions.** As used in this article, unless the context otherwise requires:

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(b) Any violation of the following provisions of the Colorado statutes or any criminal act committed in any jurisdiction of the United States which, if committed in this state, would be a crime under the following provisions of the Colorado statutes:

(IV) Offenses involving fraud, as defined in sections 18-5-102 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal possession of forged instrument), 18-5-109 (criminal possession of forgery devices), 18-5-110.5 (trademark counterfeiting), 6-16-111, C.R.S., (felony charitable fraud), 18-5-206 (defrauding a secured creditor or debtor), 18-5-403 (bribery in sports), 18-5-113

(criminal impersonation), 18-5-114 (offering a false document for recording), 18-5-702 (unauthorized use of a financial transaction device), 18-5-705 (criminal possession or sale of a blank financial transaction device), 18-5-706 (criminal possession of forgery devices), 18-5-707 (unlawful manufacture of a financial transaction device), 18-5-902 (identity theft), 18-5-903 (criminal possession of a financial device), 18-5-903.5 (CRIMINAL POSSESSION OF AN IDENTIFICATION DOCUMENT), 18-5-904 (gathering identity information by deception), and 18-5-905 (possession of identity theft tools);

**SECTION 5. Effective date - applicability.** (1) Sections 1, 3, 5, and 6 of this act shall take effect July 1, 2009, and shall apply to offenses committed on or after said date.

(2) Sections 2 and 4 of this act shall take effect July 1, 2011, and shall apply to offenses committed on or after said date.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2009