

CHAPTER 363

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 26-1283

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also SENATOR(S) Marchman and Benavidez, Cutter, Exum, Gonzales J., Hinrichsen, Jodeh, Kipp, Rodriguez, Wallace,
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AN ACT**CONCERNING PROTECTIONS RELATING TO THE CONFISCATION OF INDIVIDUALS' IDENTIFICATION DOCUMENTS.**

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

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

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

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

(g) Colorado has a compelling interest in:

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

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

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

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

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

(1)(a) EXCEPT AS OTHERWISE DESCRIBED IN THIS SECTION AND SECTION 8-2-125 (1)(c), AN EMPLOYER OR AN EMPLOYER'S AGENT SHALL NOT DEMAND, CONFISCATE, RETAIN, OR OTHERWISE REQUIRE AN INDIVIDUAL WHO IS AN EMPLOYEE OR AN APPLICANT FOR EMPLOYMENT OR WHO IS PERFORMING WORK OR SEEKING TO PERFORM WORK FOR THE EMPLOYER IN ANY CAPACITY, INCLUDING A MIGRANT WORKER OR SEASONAL EMPLOYEE, TO SURRENDER THE INDIVIDUAL'S GOVERNMENT-ISSUED IDENTIFICATION CARD.

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

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

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

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

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

(I) IN WRITING;

(II) IN ENGLISH;

(III) IN THE INDIVIDUAL'S PRIMARY LANGUAGE, IF THE EMPLOYER KNOWS THE INDIVIDUAL'S PRIMARY LANGUAGE IS NOT ENGLISH; AND

(IV) ACKNOWLEDGED BY THE INDIVIDUAL.

(b) THE EMPLOYER SHALL RETAIN A RECORD OF THE NOTIFICATION AND ACKNOWLEDGMENT IN THE EMPLOYER'S EMPLOYMENT RECORDS.

(3) NOTHING IN THIS SECTION PROHIBITS AN EMPLOYER FROM RETAINING A GOVERNMENT-ISSUED IDENTIFICATION DOCUMENT IF THE RETENTION IS:

(a) REQUIRED OR PERMITTED BY STATE OR FEDERAL LAW OR REGULATION, INCLUDING FOR THE PURPOSE OF VERIFYING AN INDIVIDUAL'S EMPLOYMENT ELIGIBILITY; OR

(b) PERFORMED PURSUANT TO A SIGNED JUDICIAL WARRANT.

(4) AN EMPLOYER THAT KNOWINGLY VIOLATES SUBSECTION (1) OF THIS SECTION COMMITS CRIMINAL POSSESSION OF AN IDENTIFICATION DOCUMENT, AS DESCRIBED IN SECTION 18-5-903.5.

(5) AS USED IN THIS SECTION, "GOVERNMENT-ISSUED IDENTIFICATION CARD" HAS THE MEANING SET FORTH IN SECTION 8-2-125 (3)(c).

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

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

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

(3) AN INDIVIDUAL WHO IS HARMED BY A PERSON'S COMMISSION OF THE OFFENSE DESCRIBED IN THIS SECTION MAY:

(a) REQUEST THAT THE COURT ORDER THE PERSON TO RETURN THE IDENTIFICATION DOCUMENT IMMEDIATELY; AND

(b) BRING A CIVIL ACTION TO RECOVER ANY DAMAGES CAUSED BY THE PERSON'S COMMISSION OF THE OFFENSE.

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

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

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

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

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

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

(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)(e) 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.

Approved: June 3, 2026