

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0052.01 Richard Sweetman

HOUSE BILL 10-1056

HOUSE SPONSORSHIP

Frangas,

SENATE SPONSORSHIP

Carroll M.,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE DISPOSAL OF BUSINESS RECORDS CONTAINING
102 PERSONAL IDENTIFYING INFORMATION.

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 prohibits a public or private entity in the state that uses paper or electronic documents or records during the course of business that contain personal identifying information (affected entity) from disposing of such a document or record unless, prior to the disposal of the document or record, the affected entity, in the case of a paper document

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.

or record, shreds the document or record or, in the case of an electronic document or record, erases and renders indecipherable and irretrievable all personal identifying information contained in the document or record. An affected entity that violates this prohibition is liable for a civil penalty. The attorney general or the district attorney of the judicial district in which the violation occurs is authorized to bring an action against an affected entity that violates the prohibition. An affected entity is required to include in its policy for the destruction or proper disposal of paper or electronic documents and records containing personal identifying information a requirement that such documents and records shall be shredded or erased and rendered indecipherable and irretrievable before the affected entity disposes of the documents or records.

The bill includes conforming amendments.

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

2 **SECTION 1.** 6-1-713 (1) and (4), Colorado Revised Statutes, are
3 amended to read:

4 **6-1-713. Disposal of personal identifying documents - policy**
5 **- penalty.** (1) (a) A PUBLIC OR PRIVATE ENTITY IN THE STATE THAT USES
6 PAPER OR ELECTRONIC DOCUMENTS OR RECORDS DURING THE COURSE OF
7 BUSINESS THAT CONTAIN PERSONAL IDENTIFYING INFORMATION SHALL
8 NOT DISPOSE OF SUCH A DOCUMENT OR RECORD UNLESS, PRIOR TO THE
9 DISPOSAL OF THE DOCUMENT OR RECORD, THE PUBLIC OR PRIVATE ENTITY:

10 (I) IN THE CASE OF A PAPER DOCUMENT OR RECORD, SHREDS THE
11 DOCUMENT OR RECORD; OR

12 (II) IN THE CASE OF AN ELECTRONIC DOCUMENT OR RECORD:

13 (A) ERASES ALL PERSONAL IDENTIFYING INFORMATION CONTAINED
14 IN THE DOCUMENT OR RECORD; AND

15 (B) RENDERS INDECIPHERABLE AND IRRETRIEVABLE ALL
16 PERSONAL IDENTIFYING INFORMATION CONTAINED IN THE DOCUMENT OR
17 RECORD.

18 (b) Each public ~~and~~ OR private entity in the state that uses PAPER

1 ORELECTRONIC documents OR RECORDS during the course of business that
2 contain personal identifying information shall develop a policy for the
3 destruction or proper disposal of ~~paper~~ SUCH documents ~~containing~~
4 ~~personal identifying information~~ AND RECORDS. THE POLICY SHALL
5 INCLUDE A REQUIREMENT THAT PAPER OR ELECTRONIC DOCUMENTS AND
6 RECORDS CONTAINING PERSONAL IDENTIFYING INFORMATION SHALL BE
7 SHREDDED OR ERASED AND RENDERED INDECIPHERABLE AND
8 IRRETRIEVABLE, AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1),
9 BEFORE THE PUBLIC OR PRIVATE ENTITY DISPOSES OF THE DOCUMENTS OR
10 RECORDS.

11 (c) A PUBLIC OR PRIVATE ENTITY THAT VIOLATES THE PROVISIONS
12 OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL PAY TO THE GENERAL
13 FUND OF THE STATE A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED FIVE
14 HUNDRED DOLLARS FOR EACH PAPER OR ELECTRONIC DOCUMENT OR
15 RECORD CONTAINING PERSONAL IDENTIFYING INFORMATION THAT THE
16 PUBLIC OR PRIVATE ENTITY FAILS TO DISPOSE OF PROPERLY, AS DESCRIBED
17 IN SAID PARAGRAPH (a). THE ATTORNEY GENERAL OR THE DISTRICT
18 ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH THE OFFENSE OCCURS MAY
19 BRING AN ACTION AGAINST THE PUBLIC OR PRIVATE ENTITY TO:

20 (I) RECOVER THE CIVIL PENALTY;

21 (II) OBTAIN ANY OTHER REMEDY, INCLUDING BUT NOT LIMITED TO
22 INJUNCTIVE RELIEF; AND

23 (III) RECOVER COSTS AND REASONABLE ATTORNEY FEES INCURRED
24 IN BRINGING THE ACTION.

25 (4) Unless an entity specifically contracts with a recycler or
26 disposal firm for destruction of PAPER OR ELECTRONIC documents OR
27 RECORDS that contain personal identifying information, nothing herein

1 shall require a recycler or disposal firm to verify that the documents OR
2 RECORDS contained in the products it receives for disposal or recycling
3 have been properly destroyed or disposed of as required by this section.

4 **SECTION 2. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.