

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0668.01 Jennifer Berman x3286

HOUSE BILL 18-1063

HOUSE SPONSORSHIP

Williams D.,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A CONSUMER'S RIGHT TO CONTROL THE INFORMATION
102 CONTAINED IN THE FILE THAT A CONSUMER REPORTING AGENCY
103 HAS ON THE CONSUMER.

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>.)

Section 1 of the bill authorizes a consumer to require a consumer reporting agency to obtain the consumer's consent:

! Before furnishing a consumer report concerning the consumer to a third party, except where the consumer reporting agency furnishes the consumer report in response

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

to a court order; or

- ! To sell, provide a copy of, or otherwise furnish to a third party any information in the file that the consumer reporting agency has on the consumer.

The consumer reporting agency must provide notice to the consumer of the consumer's right to require such consent.

Section 2 requires a consumer reporting agency to develop procedures by which a consumer, whose consumer or personal information has been hacked, altered, or otherwise compromised as a result of a security breach that occurred on or after January 1, 2017, at the consumer reporting agency, may request that the consumer reporting agency, free of charge:

- ! Turn over to the consumer the consumer's file and any consumer reports that the consumer reporting agency has developed in relation to the consumer;
- ! Purge from its physical and electronic records any information in the consumer's file and any consumer reports developed in connection with the consumer; and
- ! No longer record and retain any information related to the consumer.

Section 2 further provides that the procedures a consumer reporting agency develops would not apply to publicly available information in a consumer's file and may include procedures for handling third-party requests for credit scoring, creditworthiness, or other information related to the consumer.

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

SECTION 1. In Colorado Revised Statutes, 5-18-104, **add** (3) as follows:

5-18-104. Permissible purposes - prohibition. (3) (a) A CONSUMER MAY REQUIRE THAT A CONSUMER REPORTING AGENCY OBTAIN THE CONSUMER'S CONSENT BEFORE:

(I) FURNISHING A CONSUMER REPORT TO A THIRD PARTY UNDER ANY OF THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (1)(c) OF THIS SECTION; OR

(II) SELLING, PROVIDING A COPY OF, OR OTHERWISE FURNISHING TO A THIRD PARTY ANY INFORMATION IN THE CONSUMER'S FILE.

1 (b) A CONSUMER REPORTING AGENCY MUST GIVE A ONE-TIME
2 WRITTEN NOTICE TO EACH CONSUMER FOR WHICH THE CONSUMER
3 REPORTING AGENCY HAS A FILE OF THE CONSUMER'S RIGHT TO REQUIRE
4 CONSENT PURSUANT TO THIS SUBSECTION (3) AND OF THE PROCEDURES
5 THAT THE CONSUMER MUST FOLLOW TO REQUIRE CONSENT. THE WRITTEN
6 NOTICE MUST INCLUDE DETAILED NOTICE TO THE CONSUMER OF THE TYPES
7 OF DISCLOSURES THE CONSUMER REPORTING AGENCY IS AUTHORIZED TO
8 MAKE UNDER THIS ARTICLE 18 AND UNDER THE FEDERAL "FAIR CREDIT
9 REPORTING ACT", 15 U.S.C. SEC. 1681 ET SEQ., AS AMENDED.

10 **SECTION 2.** In Colorado Revised Statutes, **add 5-18-115.5** as
11 follows:

12 **5-18-115.5. Consumer's right to obtain file from consumer**
13 **reporting agency.** (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF
14 THIS SECTION, EACH CONSUMER REPORTING AGENCY SHALL DEVELOP
15 PROCEDURES BY WHICH A CONSUMER WHOSE CONSUMER OR PERSONAL
16 INFORMATION, AS A RESULT OF A SECURITY BREACH OF THE CONSUMER
17 REPORTING AGENCY'S FILES, SYSTEMS, SOFTWARE, OR OTHER
18 INFORMATION, HAS BEEN HACKED, ALTERED, OR OTHERWISE
19 COMPROMISED MAY REQUEST THAT THE CONSUMER REPORTING AGENCY,
20 FREE OF CHARGE:

21 (I) TURN OVER TO THE CONSUMER ALL PHYSICAL AND ELECTRONIC
22 COPIES OF THE CONSUMER'S FILE, ANY ORIGINAL DOCUMENTS INCLUDED
23 IN THE CONSUMER'S FILE, AND ANY CONSUMER REPORTS THAT THE
24 CONSUMER REPORTING AGENCY HAS DEVELOPED IN CONNECTION WITH THE
25 CONSUMER'S FILE;

26 (II) PURGE FROM ITS PHYSICAL AND ELECTRONIC RECORDS ANY
27 INFORMATION IN THE CONSUMER'S FILE AND ANY CONSUMER REPORTS

1 THAT THE CONSUMER REPORTING AGENCY HAS DEVELOPED IN
2 CONNECTION WITH THE CONSUMER'S FILE; AND

3 (III) NO LONGER RECORD OR RETAIN ANY INFORMATION,
4 REGARDLESS OF HOW THE INFORMATION IS OBTAINED OR HOW IT WOULD
5 BE STORED, RELATED TO THE CONSUMER.

6 (b) THE PROCEDURES THAT A CONSUMER REPORTING AGENCY IS
7 REQUIRED TO DEVELOP PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION:

8 (I) APPLY ONLY TO A SECURITY BREACH THAT OCCURRED ON OR
9 AFTER JANUARY 1, 2017; AND

10 (II) DO NOT APPLY TO ANY PUBLICLY AVAILABLE INFORMATION IN
11 A CONSUMER'S FILE.

12 (2) PURSUANT TO THIS SECTION, EACH CONSUMER REPORTING
13 AGENCY MAY DEVELOP PROCEDURES FOR HANDLING THIRD-PARTY
14 REQUESTS FOR CREDIT SCORING, CREDITWORTHINESS, OR OTHER
15 INFORMATION RELATED TO A CONSUMER WHO HAS PREVIOUSLY
16 REQUESTED THAT THE CONSUMER REPORTING AGENCY TURN OVER THE
17 CONSUMER'S FILE AND ANY CONSUMER REPORTS DEVELOPED IN
18 CONNECTION WITH THE CONSUMER'S FILE.

19 **SECTION 3. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.