

New Laws: County Clerk and Immigration Status

New County Clerk Laws

C.R.S. 24-72-305.6 gives the county clerk and recorder authority to request criminal history records for individuals who assist in the process of conducting elections and thereby may have access to electromechanical voting systems or vote tabulating equipment, including any part-time, full-time or contract employees. Volunteers are not listed. Access may be from the state website or through the county sheriff.

Pointer for County Officials and Staff:

While this new law does not specify additional privacy protections, counties should ensure that any county clerk or deputy county clerk with access to this information is fully trained as to the proper and improper use of any information procured, and that there are criminal penalties attached to the misuse of the CBI criminal history database information under Colorado and federal laws.

C.R.S. 24-72-204 has a new subsection that specifies that “a designated election official” shall not allow anyone access to inspect specified personal data, other than the “person in interest”. A designated election official includes the governing board, secretary of the board, county clerk and recorder or other person designated by the governing body as the person who is responsible for the running of an election. It does not include law enforcement officers or district attorneys investigating election crimes.

“Person in interest” means and includes the person who is the subject of the record or any representative designated by said person; except that, if the subject of the record is under legal disability, “person in interest” means and includes his parent or duly appointed legal representative.

New Law on Reporting Immigration Status by Law Enforcement Agents

C.R.S. 29-29-101 requires county law enforcement agents to report to federal immigration authorities the arrest of any person, about whom that agent has probable cause to think that the arrestee is not legally present in the United States, whether or not later detained in a detention facility.

Note: The implementation of this reporting must be compliant without regard to race, religion, age, gender, national origin or other protected class under the Constitution of the United States, as specified under other immigration rules recently passed by the legislative process.