



State of South Carolina Office of the Governor

MARK SANFORD
GOVERNOR

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March 31, 2010

The Honorable André Bauer
President of the Senate
State House, First Floor, East Wing
Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate:

I am writing to inform you that I am vetoing and returning without my approval S. 191, R. 140, which provides law enforcement the authority to subject probationers and parolees to searches and seizures without warrants and, in many cases, without suspicion.

I have spoken with many, like Mayor Joe Riley of Charleston, whose opinion and advice on matters like this one I admire, but at the end of the day, am still compelled to veto this bill. I do so because I believe there is a balancing act for all of us between fundamental rights bestowed by God, rather than society, and the needs of any society for law and order. In the past, we have attempted to strike this balancing act by opposing legislation that we believed went too far in eroding liberty such as the DNA sampling bill and the REAL ID bill.

All of us give up certain freedoms to live in a civilized society. Society at large holds to certain standards and when breached through the judicial and law enforcement arms, exacts consequences. And as we recognized in our veto message of the DNA bill, the greater the breach – or crime – the greater the consequence and, in turn, the more rights you are legitimately compelled to give up.

The greatest of all aims in the American system is toward freedom and liberty and correspondingly this, I believe, is the right we should most jealously guard. Our Founding Fathers viewed liberty as an inalienable right from God and, therefore, when we talk of taking it from a member of society, even one who has committed a crime in the past, I believe there should be an overwhelming reason to do so. The data that has been provided to this office to date does not show this overwhelming reason since other states that have adopted similar

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measures saw no material change in recidivism or decreases in crime. If there had been overwhelming results on this front, we would have supported the bill since in that case the benefit to society would outweigh the cost to individual liberty.

I appreciate the jobs our law enforcement officers perform and recognize their need for tools and methods to keep South Carolinians safe, and from their vantage point I can see where it might aid them in their efforts and understand their advocacy. From the view of society at large, and the balance between efforts aimed at security and freedom, it goes too far in giving law enforcement a blanket grant of authority to conduct searches and seizures over a segment of our population regardless of whether there is a reasonable suspicion of criminal activity. We believe that an essential safeguard of liberty in this country is the protection from unreasonable searches and seizures by the government, and this bill removes that protection for probationers and parolees by subjecting them to searches without cause or warrants.

Part of our Founders' aim toward a restrained and limited government was predicated on holding back from arbitrarily invading the privacy of any citizens through suspicionless and warrantless searches. With probable cause or suspicion there are a host of tools available to government to conduct a search. Accordingly, we feel that once a judge or parole board determines that an individual is fit to live in free society outside the confines of a prison, then they are entitled to a sphere of privacy that cannot be invaded by the government without reasonable suspicion or a warrant.

As we look at sentencing reform in this state, I think it will be very important to address this issue of search and seizure. Our office, in fact, would not have a problem with prospectively including it as a part of sentencing alternatives, but view the retrospective action outlined in this bill to be something very different both in its cost to civil liberty and in not living up to its claims in making our state safer.

For these reasons, we are vetoing S. 191, R. 140.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. Sanford', with a stylized, sweeping flourish at the end.

Mark Sanford