

Governor Lynch's Veto Message Regarding HB 1549

By the authority vested in me pursuant to part II, Article 44 of the New Hampshire Constitution, on May 23, 2012, I vetoed HB 1549.

HB 1549 when first introduced prohibited state participation in the E-Verify system for worker immigration status that has been implemented by the United States Citizenship and Immigration Service. This legislation, however, was entirely replaced and as now presented to me would prohibit the federal government from using or maintaining "in any federal identification database" information from New Hampshire motor vehicle records, including those available pursuant to a court order, or in response to a request from a state, the federal government, or a law enforcement agency. The bill, as passed, would prohibit the federal government from maintaining information from New Hampshire motor vehicle records for lawful public safety purposes.

Although this bill may have been well-intentioned, the New Hampshire Department of Safety believes it would have serious negative consequences for the apprehension of criminals, the recovery of stolen vehicles, and even for the prevention of terrorism and threats against the President and Vice-President of the United States. It could also impair the ability of New Hampshire's criminal justice agencies to receive such information from federal officials because New Hampshire would not be sharing this data reciprocally with them. The Department of Safety has provided several examples of the problems this could create.

For example, if a New Hampshire citizen or visitor has their car stolen, the police will determine from the motor vehicle records the registration number, vehicle identification number and description of the vehicle and request that the State Police enter this information into the National Crime Information Center (NCIC), which is a federal identification database maintained by the FBI. A police officer anywhere in the country stopping that vehicle for any purpose will know that the vehicle is a stolen car, and if a motor vehicle department of another state is asked to title or register that vehicle, they will know that it is stolen. HB 1549 is so broadly written that it could prevent the sharing of this information.

If a minor disappears from his or her home in New Hampshire, and that minor has a driver license or non-driver identification card, the police will request that minor's photo from the Division of Motor Vehicles and it will be entered into the database at the National Center for Missing and Exploited Children, to assist in locating the minor. This is a federal identification database.

When a person is arrested for a crime committed in New Hampshire, that person is fingerprinted by the arresting agency and the prints are forwarded to the State Police Criminal Records Unit and entered into IAFIS, the Integrated Automated Fingerprint Identification System maintained by the FBI. If the person is subsequently found innocent or the charges are dropped, the prints are destroyed. The fingerprints of convicted criminals are routinely matched up with latent fingerprints lifted at the scenes of crimes and used to convict the perpetrator of the crime. IAFIS is a federal identification database.

If New Hampshire law enforcement becomes aware of a credible threat against the President or Vice-President or any candidate for those offices who is eligible for Secret Service protection, this information along with a photo, physical description and information as to vehicles owned or driven by this individual is shared with the Secret Service and if they investigate and also deem the threat to be credible, it will go into their file on the case, which could be considered a federal identification database. The same applies to sharing information with the FBI on a credible terrorist threat originating in New Hampshire.

These are just some examples of the real concerns that Commissioner Barthelmes and the Department of Safety have brought to my attention concerning how HB 1549, as passed, could

interfere or complicate valid law enforcement efforts and public safety.

New Hampshire has in place some carefully crafted restrictions on the collection or sharing of motor vehicle information, such as RSA 260:14, which governs access to motor vehicle records, and 2007 Laws Chapter 243, which prohibits New Hampshire's participation in Real ID. Based on the concerns expressed by the Department of Safety, HB 1549 will have serious negative consequences for public safety, and would disrupt routine, time-honored law enforcement procedures. For all of these reasons, I have vetoed HB 1549.

Respectfully submitted,

John H. Lynch

Governor

Date: May 23, 2012