Department of the Secretary of State
Bureau of Motor Vehicles

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JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

L.D. 1585 "An Act To Increase Privacy and Security by Prohibiting the Use of Facial Surveillance by Certain Government Employees and Officials"

Testimony In Support by Shenna Bellows, Secretary of State

Senator Deschambault, Representative Warren and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Shenna Bellows. I am the Secretary of State and representing the Bureau of Motor Vehicles today speaking in support of L.D. 1585 "An Act To Increase Privacy and Security by Prohibiting the Use of Facial Surveillance by Certain Government Employees and Officials."

The right to privacy is a key component of the First Amendment right to freedom of speech and association as well as the Fourth Amendment right to freedom from unreasonable searches and seizures. Facial recognition technology has the power to completely eliminate privacy in public spaces with serious consequences for civil liberties should it be deployed on a widespread basis without limitation. In the interest of defending the right to privacy, it is incredibly important that policy makers put in place limitations on the deployment of facial recognition technology. That's why we support the underlying premise of this bill. Maine has traditionally been a leader in protecting our constitutional freedoms and should continue to do so.

At the same time, there are some narrow legitimate uses of facial recognition technology to advance the public good without harm to civil liberties. One example of the use of facial recognition technology is found in Title 29-A, Section 1401, which permits the Secretary of State to use facial recognition technology for the issuance of a driver's license or identification card.

Currently, the Maine Bureau of Motor Vehicles utilizes image verification technology through a vendor called Idemia for the issuance of Maine Driver's Licenses and Maine Identification Cards. The image verification software operates by using the characteristics of an individual's face to compare images. The program does not generate leads based on race, gender, or ethnicity. Leads are created through an analysis of the distance between known points in comparison to other images. The software runs two basic screening processes to identify potential fraud. First, new images that are captured for an existing record are verified against other images that exist for that record. This protocol ensures that the current applicant is the same individual that previously obtained a credential under that history number. This security check protects applicants from potential identity thieves that may be trying to obtain a credential in another person's name. A second screening is run that compares a newly captured image to all the other images that are in the BMV database. This search identifies potential leads for individuals that have multiple credentials.

It is important to note that the customer is generally not impacted using image verification technology. Branch transactions are processed without impeding the customer. All image verification leads are reviewed by BMV staff daily. Most leads are cleared without further action and the credentials are processed according to normal procedures. If images cannot be cleared, they are referred for further investigation.

Through the investigation process, the images are compared more closely, and background data is gathered on the individual. Many images are cleared through investigation as nonfraudulent behavior. An example of this would be the first appearance of twins. Once twins have been identified they are noted in the system and they will no longer match in the future. In some cases, the investigation reveals that an individual is a victim of identity theft. In those cases, detectives assist the individual with securing their identities and helping them to prevent fraud in the future. When fraud is detected, the fraudulent transactions are investigated and referred for administrative and/or criminal proceedings.

The software is in place to safeguard the identities of Maine credential holders and to maintain the integrity of the BMV database. This BMV system is a standalone system that is not accessible to any other agencies. The system relies on high-quality photographs to generate leads and is not used in any form of surveillance operations.

We appreciate the sponsor's willingness to amend the bill to ensure that the Bureau of Motor Vehicles is able to continue to utilize facial recognition technology for the purpose of issuing credentials and safeguarding Mainers from identity theft or license fraud.

The amendment proposed is:

Add to §6001(2):
(C): Nothing prohibits the Secretary of State from using facial recognition in accordance with Title 29-A, §1401(9).

I would be pleased to answer any questions. We would be pleased to work with the committee on this amendment and any other policies to safeguard privacy and civil liberties. Thank you for your consideration.