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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that law enforcement  
2 officers' use of masks and other methods to obscure individual  
3 officer identity can lead to fear, intimidation, and public  
4 distrust. To prevent these negative views of law enforcement,  
5 other jurisdictions have adopted standards to ensure that law  
6 enforcement personnel and their vehicles are clearly  
7 identifiable.

8           The legislature further finds that, according to the  
9 American Immigration Council, the State is home to approximately  
10 two hundred fifty-eight thousand immigrants, comprising eighteen  
11 per cent of the State's population. About thirty thousand of  
12 these foreign-born individuals are believed to be undocumented.  
13 The legislature recognizes that the State is justifiably proud  
14 of its rich immigrant heritage, which has woven many residents  
15 into a valued tapestry of races, ancestral groups, religions,  
16 cultures, and languages from people throughout the world.  
17 Accordingly, it is necessary to establish clear policies and



1 limits on federal immigration enforcement occurring within the  
2 State. This includes upholding due process and judicial  
3 oversight standards; restricting immigration enforcement  
4 activity from occurring in sensitive places such as schools,  
5 places of worship, and health care facilities; and requiring  
6 reporting on enforcement activity and the use of personal data.

7 Accordingly, the purpose of this Act is to:

- 8 (1) Prohibit, with certain exceptions, the use of facial  
9 coverings; require the visible identification of law  
10 enforcement officers and their vehicles in the  
11 performance of their duties; and require state and  
12 county law enforcement agencies to adopt related  
13 policies;
- 14 (2) Establish a policy on civil immigration enforcement and  
15 status inquiries under the department of law  
16 enforcement; require state and county law enforcement  
17 agencies to establish their own policies; and authorize  
18 the department to assist with compliance; and
- 19 (3) Establish criminal offenses for:
- 20 (A) Use of a mask or facial covering by a law  
21 enforcement officer; and



1 (B) Unauthorized civil immigration arrest or  
2 detention.

3 SECTION 2. Chapter 139, Hawaii Revised Statutes, is  
4 amended by adding three new sections to be appropriately  
5 designated and to read as follows:

6 "§139-A Facial coverings; visible identification; marking  
7 of vehicles; written policy. (a) By July 1, 2027, each law  
8 enforcement agency operating in the State shall establish and  
9 publicly post on the agency's website a written policy regarding  
10 the use of facial coverings, visibility of badges, and the  
11 conspicuous marking of law enforcement vehicles.

12 (b) The policy shall include:

13 (1) A purpose statement affirming the agency's commitment  
14 to:

15 (A) Transparency, accountability, and public trust;

16 (B) Restricting the use of facial coverings to  
17 specific, clearly defined, and limited  
18 circumstances; and

19 (C) The principle that generalized and  
20 undifferentiated fear and apprehension about law  
21 enforcement officer safety shall not be sufficient



1           to justify the use of facial coverings or the  
2           concealment of badges;

3       (2) A requirement that:

4           (A) No law enforcement officer shall wear a facial  
5           covering that conceals or obscures the law  
6           enforcement officer's facial identity while the  
7           officer is performing official duties;

8           (B) Each law enforcement officer, except for a  
9           plainclothes officer, at all times while on duty,  
10           shall wear identification displayed in a manner  
11           that is clearly visible and readable during  
12           direct engagement with the public; displayed on  
13           the outmost garment or gear; not obscured by  
14           tactical equipment, body armor, or accessories;  
15           and that shall include:

16           (i) The full name or widely recognized initials  
17           of the officer's employing agency; and

18           (ii) The officer's last name or unique badge or  
19           identification number; and

20           (C) Each vehicle used in immigration enforcement  
21           operations shall bear conspicuous markings



1           identifying the law enforcement agency to which  
2           the vehicle belongs;

3       (3) A list of narrowly tailored exemptions for the  
4       following:

5       (A) Active undercover operations or assignments  
6       authorized by supervising personnel or court  
7       order;

8       (B) Tactical operations where protective gear is  
9       required for physical safety;

10      (C) Applicable law governing occupational health and  
11      safety;

12      (D) Protection of identity during prosecution;

13      (E) Applicable law governing reasonable  
14      accommodations; and

15      (F) Plainclothes officers, as designated by the  
16      officer's agency; provided that no plainclothes  
17      officer shall wear a facial covering that conceals  
18      or obscures the plainclothes officer's facial  
19      identity while the officer performs official  
20      duties; provided further that a plainclothes  
21      officer may wear a mask when the officer is within



1           eyesight of another officer from the same agency  
2           who is unmasked while the masked plainclothes  
3           officer performs official duties;

4       (4) A requirement that an opaque facial covering may be  
5       used only when:

6           (A) No other reasonable alternative exists;

7           (B) The necessity is documented contemporaneously or  
8           as soon as practicable thereafter; and

9           (C) The identification required under this policy  
10          remains visible unless an express exemption under  
11          paragraph (3) applies to the identification  
12          requirement;

13       (5) A requirement that no supervisor shall knowingly allow  
14       a law enforcement officer under the supervisor's  
15       command to violate state law or agency policy  
16       regarding the use of a facial covering or the display  
17       of identification on the officer or vehicle; and

18       (6) Appropriate penalties.

19       (c) For the purposes of this section:

20       "Facial covering" has the same meaning as defined in section  
21       710-A.



1       "Law enforcement agency" means any county police department,  
2 the department of law enforcement, the department of the attorney  
3 general, the division of conservation and resources enforcement  
4 of the department of land and natural resources, any other state  
5 or county public body that employs law enforcement officers, and  
6 any federal law enforcement agency.

7       "Law enforcement officer" means any officer of a local,  
8 state, or federal law enforcement agency, or any person acting on  
9 behalf of a local, state, or federal law enforcement agency.

10       **§139-B Civil immigration enforcement; written policy.** (a)  
11 By July 1, 2027, each law enforcement agency operating in the  
12 State shall establish and publicly post on its website a written  
13 policy regarding civil immigration enforcement in the State.

14       (b) The policy shall provide that:

15       (1) No state or county law enforcement agency shall  
16 participate in civil immigration enforcement activity  
17 unless required by state or federal law or pursuant to  
18 a judicial warrant or court order;

19       (2) Absent a judicial warrant, no state or county  
20 participation in civil immigration enforcement  
21 activity shall occur at schools or early-learning



- 1 sites, health care facilities, emergency or domestic  
2 violence shelters, courthouses, or places of worship;
- 3 (3) State and county agencies shall adopt written limits  
4 on the collection, retention, and sharing of  
5 immigration-related personal data except as required  
6 by state or federal law; provided that nothing in this  
7 paragraph shall be construed to prohibit conduct  
8 authorized by title 8 United States Code sections 1373  
9 and 1644;
- 10 (4) Each state or county agency shall periodically publish  
11 aggregate data on civil immigration requests made to  
12 or by the agency; and
- 13 (5) Each state and county law enforcement agency shall  
14 adopt body-worn camera procedures for documenting  
15 interactions with federal immigration authorities when  
16 agency personnel are present at the scene, to the  
17 extent allowed by law and departmental policy.
- 18 (c) For the purposes of this section:  
19 "Law enforcement agency" has the same meaning as defined in  
20 section 139-A.





1 "Law enforcement officer" has the same meaning as defined in  
2 section 139-A.

3 **§139-C Civil immigration status inquiries; documentation;**  
4 **limitations.** (a) Each law enforcement agency operating in the  
5 State shall include in its written policy required under  
6 section 139-B procedures governing a law enforcement officer's  
7 authority to make any inquiry into a person's civil immigration  
8 status, including the authority to ask a person about  
9 citizenship, immigration status, place of birth, or request  
10 documentation for purposes of determining civil immigration  
11 status.

12 (b) No law enforcement officer shall initiate or prolong a  
13 stop, detention, or arrest of a person for the purpose of  
14 determining the person's civil immigration status unless the  
15 officer has reasonable suspicion, based on specific and  
16 articulable facts, that the person is unlawfully present in the  
17 United States and the inquiry is otherwise authorized by state  
18 law and the agency's written policy.

19 (c) Reasonable suspicion under subsection (b) shall not be  
20 based solely on race, color, ethnicity, national origin,  
21 ancestry, language, accent, religion, manner of dress, presence



1 in a particular location, or the exercise of rights protected by  
2 the United States Constitution or the Hawaii State Constitution.

3 (d) For the purposes of this section:

4 "Law enforcement agency" has the same meaning as defined in  
5 section 139-A.

6 "Law enforcement officer" has the same meaning as defined in  
7 section 139-A."

8 SECTION 3. Chapter 353C, Hawaii Revised Statutes, is  
9 amended by adding a new section to be appropriately designated  
10 and to read as follows:

11 "§353C- Civil immigration enforcement policy. (a) It is  
12 the policy of the department that the department shall not  
13 participate in civil immigration enforcement activity except as  
14 required by state or federal law or pursuant to a judicial  
15 warrant or court order.

16 (b) The department shall adopt internal procedures  
17 consistent with subsection (a), including procedures governing  
18 requests for assistance from federal immigration authorities and  
19 requests for access to nonpublic areas of department-controlled  
20 facilities.



1        (c) This section shall not be construed to regulate  
2 private persons or private entities.

3        (d) The department may issue guidance to state and county  
4 agencies regarding best practices for compliance with this  
5 section."

6            SECTION 4. Chapter 710, Hawaii Revised Statutes, is  
7 amended by adding two new sections to part II to be  
8 appropriately designated and to read as follows:

9            **"§710-A Use of a mask or facial covering by a law**  
10 **enforcement officer.** (1) A person commits the offense of use  
11 of a mask or facial covering by a law enforcement officer if the  
12 person:

- 13            (a) Is a law enforcement officer; and
- 14            (b) Wears a mask or facial covering that conceals or  
15 obscures the person's facial identity while  
16 interacting with the public in the performance of the  
17 law enforcement officer's duties.

18            (2) This section shall not apply to a law enforcement  
19 officer who is:

- 20            (a) Engaged in an authorized undercover assignment or  
21 operation, or related duties in support of an



- 1           undercover assignment or operation, authorized by  
2           supervising personnel or court order;
- 3           (b) Engaged in an active tactical operation where  
4           protective gear is required for physical safety;
- 5           (c) Using protective equipment as required by applicable  
6           occupational health and safety law;
- 7           (d) Using a facial covering to protect identity during  
8           prosecution, as authorized by law or court order; or
- 9           (e) A plainclothes officer designated by the officer's  
10           agency; provided that the officer may wear a facial  
11           covering only within the eyesight of another officer  
12           from the same agency who is unmasked while the  
13           plainclothes officer performs official duties.
- 14           (3) Use of a mask or facial covering by a law enforcement  
15           officer shall be a misdemeanor.
- 16           (4) For the purposes of this section:
- 17           "Law enforcement agency" means any county police  
18           department, the department of law enforcement, the department of  
19           the attorney general, the division of conservation and resources  
20           enforcement of the department of land and natural resources, and



1 any federal, state, or county public body that employs law  
2 enforcement officers or other sworn personnel.

3 "Law enforcement officer" means any officer of a local,  
4 state, or federal law enforcement agency, or any person acting  
5 on behalf of a local, state, or federal law enforcement agency.

6 "Mask" or "facial covering" means any opaque mask, garment,  
7 helmet, headgear, or other item that conceals or obscures the  
8 facial identity of an individual, including but not limited to a  
9 balaclava, tactical mask, gaiter, ski mask, or similar  
10 face-shielding item. "Mask" or "facial covering" shall not  
11 include:

12 (a) A medical grade mask that is surgical or an N95  
13 respirator designed to prevent the transmission of  
14 airborne diseases;

15 (b) Equipment necessary for weather or underwater  
16 protection;

17 (c) A mask designed to protect against exposure to smoke  
18 during a state of emergency related to a wildfire;

19 (d) Protective gear used by law enforcement officers  
20 necessary to safely perform official duties as a



1 member of the specialized services division, a special  
2 weapons and tactics team, or a special response team;  
3 (e) A face shield if the face shield does not conceal or  
4 obscure the wearer's face; and  
5 (f) A motorcycle helmet when worn by an officer while in  
6 the performance of the officer's duties and utilizing  
7 a motorcycle or other vehicle that requires a helmet  
8 for safe operation; provided that the law enforcement  
9 officer shall remove the mask or facial covering  
10 before and after operating the motorcycle or vehicle  
11 as soon as reasonably practicable.

12 "Motorcycle" has the same meaning as defined in section  
13 291C-1.

14 **§710-B Unauthorized civil immigration arrest or detention.**

15 (1) A person commits the offense of unauthorized civil  
16 immigration arrest or detention if the person is a law  
17 enforcement officer, acting under color of law, who  
18 intentionally or knowingly acts beyond the scope of the law  
19 enforcement officer's lawful authority by initiating or  
20 prolonging a stop, detention, or arrest for the purpose of  
21 determining or enforcing the person's civil immigration status



1 when the officer lacks reasonable suspicion, based on specific  
2 and articulable facts, that the person is unlawfully present in  
3 the United States.

4 (2) Unauthorized civil immigration arrest or detention is  
5 a misdemeanor.

6 (3) For the purposes of this section:

7 "Civil immigration status" means a person's status under  
8 federal immigration law that is civil in nature and not, by  
9 itself, a criminal offense under state law.

10 "Reasonable suspicion" shall not be based solely on race,  
11 color, ethnicity, national origin, ancestry, language, accent,  
12 religion, manner of dress, presence in a particular location, or  
13 the exercise of rights protected by the United States  
14 Constitution."

15 SECTION 5. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 6. If any provision of this Act, or the  
19 application thereof to any person or circumstance, is held  
20 invalid, the invalidity does not affect other provisions or  
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 7. In codifying the new sections added by sections  
4 2 and 4 of this Act, the revisor of statutes shall substitute  
5 appropriate section numbers for the letters used in designating  
6 the new sections in this Act.

7 SECTION 8. New statutory material is underscored.

8 SECTION 9. This Act shall take effect on March 22, 2075.





**Report Title:**

Law Enforcement Officers; Law Enforcement Agencies; Facial Coverings; Visible Identification; Civil Immigration Enforcement

**Description:**

Prohibits with certain exceptions, the use of facial coverings and requires visible identification by law enforcement officers and their vehicles in the performance of their duties. Requires state and county law enforcement agencies to establish policies regarding state and county cooperation with federal civil immigration enforcement. Prohibits law enforcement officers from prolonging a stop to inquire about a person's civil immigration status. Establishes criminal offenses for use of a mask or facial covering by a law enforcement officer, lack of visible identification, and unauthorized civil immigration arrest or detention. Effective 3/22/2075. (SD2)

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