STAND. COM. REP. NO. 3073

Honolulu, Hawaii

MAR 06 2026

RE: S.B. No. 3322
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2026
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 3322, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LAW ENFORCEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

(1) Prohibit with certain exceptions, the use of facial coverings and require visible identification by law enforcement officers and their vehicles in the performance of their duties;

(2) Require state and county law enforcement agencies to establish policies regarding state and county cooperation with federal civil immigration enforcement;

(3) Prohibit law enforcement officers from prolonging a stop to inquire about a person's civil immigration status; and

(4) Establish criminal offenses for improper facial coverings, lack of visible identification, and unauthorized civil immigration interrogation.

Your Committee received testimony in support of this measure from one member of the Hawai‘i County Council; Stonewall Caucus of

the Democratic Party of Hawai‘i; Roots Reborn; Imua Alliance; Hawaii Filipino Lawyers Association; Pacific Gateway Center; Indivisible Hawaii; Hawai‘i Coalition for Immigrant Rights; Fujiwara and Rosenbaum, LLLC; ACLU Hawai‘i; The Legal Clinic; and fifty-six individuals.

Your Committee received testimony in opposition to this measure from the Kaua‘i Police Department and two individuals.

Your Committee received comments on this measure from the Hawai‘i Police Department.

Your Committee finds that communities across the nation have witnessed masked, unidentified agents conducting enforcement actions that create fear, confusion, and the risk of dangerous escalation. When law enforcement officers, whether state or county officers or federal agents, conceal their identities through masks or lack visible identification, it undermines the most basic principles of democratic policing: transparency, accountability, and public trust. Additionally, when officers cannot be identified, misconduct often goes unchecked, civil rights violations become easier to commit, and communities, particularly immigrant communities and other vulnerable populations, live in fear. This measure will ensure that law enforcement officers serve everyone fairly and uphold constitutional protections for all of the State's residents.

Your Committee notes that S.B. No. 2203, S.D. 2 (Regular Session of 2026), which was previously passed by the Senate, also establishes a criminal offense for the use of a mask or facial covering by a law enforcement officer. Your Committee concludes that the language in S.B. No. 2203, S.D. 2, is preferable to the language in section 4 of this measure, which establishes the offense of facial coverings and visible identification for law enforcement officers, because it includes exemptions for law enforcement officers who are engaged in an authorized undercover assignment or operation, conducting related duties in support of an undercover assignment or operation, or are within eyesight of another officer from the same law enforcement agency who is unmasked and imposes a misdemeanor for all violations, rather than a petty misdemeanor for the first offense.

Your Committee further notes that this measure establishes an affirmative defense for the offense of unauthorized civil immigration, interrogation, arrest, or detention, which exempts liability from officers who make a stop, detention, or arrest supported by reasonable suspicion of a state or local law violation, so long as the officer did not initiate the stop, detention, or arrest for an impermissible immigration-related purpose. However, that conduct is already not a crime, as the offense established by this measure only criminalizes the knowing interrogation, arrest, or detention for the purpose of determining or enforcing the person's civil immigration status when the officer lacks reasonable suspicion. Your Committee additionally notes that typically, an affirmative defense is a separate set of facts that negates liability if proven, even if the underlying offense is established. The affirmative defense established in this measure, however, only applies if a defendant was already not guilty of the underlying offense and is therefore unnecessary.

Accordingly, your Committee has amended this measure by:

(1) Deleting language that would have established the offense of facial coverings and visible identification for law enforcement officers and inserting language from S.B. No. 2203, S.D. 2, a substantially similar measure, which establishes the misdemeanor offense of use of a mask or facial covering by a law enforcement officer;

(2) Deleting language that would have established an affirmative defense to the offense of unauthorized civil immigration, interrogation, arrest, or detention;

(3) Lowering the offense of unauthorized civil immigration, interrogation, arrest, or detention from a class C felony to a misdemeanor;

(4) Specifying that "interrogate" means to question a person who is stopped, detained, or arrested in a manner reasonably intended to elicit information regarding the person's citizenship or civil immigration status, including requesting immigration documentation, for the purpose of determining or enforcing civil immigration status;

(5) Amending section 1 to reflect its amended purpose;

(6) Inserting an effective date of March 22, 2075, to encourage further discussion; and

(7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3322, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3322, S.D. 2.

Respectfully submitted on behalf of the members of the Committee on Judiciary.

Committee on Judiciary,

KARL RHOADS, Chair

The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:
SB 3322 SD1	PSM/ETA, JDC	3/5/26

☐ The Committee is reconsidering its previous decision on this measure.

If so, then the previous decision was to: _____

The Recommendation is:

☐ Pass, unamended 2312 ☑ Pass, with amendments 2311 ☐ Hold 2310 ☐ Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
CHANG, Stanley	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton			✓	
TOTAL	4	—	1	—

Recommendation: ☑ Adopted ☐ Not Adopted

Chair's or Designee's Signature:

Distribution: Original — File with Committee Report; Yellow — Committee; Pink — Drafting Agency

*Only one measure per Record of Votes

Revised: 01/02/26