

1 immigration detention, removal or deportation proceedings, or
2 criminal prosecution for offenses related to immigration status.

3 "Legal assistance" means legal advice or representation
4 provided by an attorney or an individual under the direct
5 supervision of an attorney.

6 "Law enforcement agency" has the same meaning as in section
7 139-1.

8 "Law enforcement officer" has the same meaning as in
9 section 139-1.

10 "Personal information" means any information that is linked
11 or reasonably linkable, alone or in combination with other
12 information, to an identified or identifiable individual, or a
13 device that identifies or is linked or reasonably linkable to an
14 individual, including geolocation.

15 "Public employee" means any nominated, appointed, or
16 elected officer or employee of the State or any county,
17 including the political subdivisions and agencies thereof, any
18 employee under contract with the State or any county, and any
19 probationary or provisional employee of the State or county.

20 **§ -2 Limitation on state and federal collaboration;**
21 **immigration enforcement.** (a) Except as required by title 8



1 United States Code sections 1373(a) and 1644, or other federal
2 or state law, no state or county departments or agencies shall
3 assist or cooperate with immigration enforcement operations.

4 (b) Except as required by federal or state law, no public
5 employee acting in their official capacity shall assist or
6 cooperate with, or allow any time, money, facilities, property,
7 equipment, personnel, or other resources to be used to assist,
8 cooperate with, or facilitate any operation executed in whole or
9 part by federal authorities or out-of-state authorities that
10 seeks to identify, arrest, or otherwise impose:

11 (1) A penalty or civil or criminal liability upon a person
12 or entity based on their engagement in activities
13 protected by the United States Constitution or the
14 Hawaii Constitution regarding assembly, petitioning,
15 and speech; or

16 (2) A penalty upon a person for purposes of federal
17 immigration enforcement, including an immigration
18 enforcement operation occurring at or near a school,
19 health facility, place of worship, or courthouse.

20 § -3 **Limitation on state deputization.** A public
21 employee or law enforcement officer shall not request assistance



1 from a federal law enforcement officer for the enforcement of
2 state laws regarding check points or screenings and motor
3 vehicle traffic stops.

4 **§ -4 Agreements for criminal law enforcement.** (a) If a
5 law enforcement agency enters into an agreement with federal
6 authorities for the purpose of criminal law enforcement, the
7 agreement shall be in writing and shall not authorize the
8 participation of federal law enforcement officers or law
9 enforcement authorities in checkpoints, screenings, or motor
10 vehicle traffic stops conducted at the direction, or with the
11 assistance, of a law enforcement agency or law enforcement
12 officer.

13 (b) Any agreement under subsection (a) shall not exceed
14 two years and shall include a requirement for the training of
15 involved federal law enforcement officers on state
16 constitutional and statutory civil rights protections. Any
17 agreement shall be subject to review and approval by the
18 attorney general.

19 **§ -5 Task force; prohibition.** (a) No public employee,
20 law enforcement agency, or law enforcement officer shall take
21 part in or seek to enter an agreement with federal authorities



1 or out-of-state authorities for the purposes of collecting
2 personal information, providing assistance with surveillance,
3 investigations, or prosecution or an immigration enforcement
4 operation, including a joint federal-state operation such as a
5 federal Department of Homeland Security task force, fusion
6 center, or joint terrorism task force, if the public employee,
7 law enforcement agency, or law enforcement officer has reason to
8 believe the agreement would result in:

- 9 (1) Conduct that amounts to a violation of individual
10 liberties and rights guaranteed under the United
11 States Constitution or Hawaii State Constitution,
12 including racial profiling, unlawful surveillance or
13 investigation, excessive use of force, or unlawful
14 detention;
- 15 (2) Conduct that seeks to identify, apprehend, arrest, or
16 impose civil or criminal liability or other penalties
17 upon a person or entity for:
- 18 (A) Engaging in protected activities including
19 assembly, petitioning, and speech;



- 1 (B) The provision of humanitarian assistance, legal
2 assistance, or other aid to benefit an
3 individual;
- 4 (C) Civil immigration detention, removal, or
5 deportation proceedings;
- 6 (D) Offenses related to immigration status; or
- 7 (E) Nonfederal misdemeanors and violations, including
8 motor vehicle offenses and traffic violations; or
- 9 (3) An attempt to obtain data from a law enforcement
10 agency, conduct surveillance, or investigate domestic
11 terrorism and organized political violence in
12 furtherance of the objectives of National Security
13 Presidential Memorandum-7.
- 14 (b) Prior to the renewal or establishment of a new
15 agreement, the law enforcement agency shall seek and receive
16 written approval from the attorney general that the agreement is
17 in compliance with applicable state laws.
- 18 § -6 **Penalties.** Any person who violates this chapter
19 shall be guilty of a misdemeanor and upon conviction, the person
20 shall be fined no more than \$2,000 or imprisoned no more than
21 one year, or both."



1 SECTION 2. Chapter 139, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§139- Identification requirements; face coverings.**

5 (a) No law enforcement officer or federal law enforcement
6 officer shall intentionally obscure or conceal the officer's
7 identity while engaged in any official duty or public
8 interaction by wearing a mask, face covering, or other article
9 that covers or obscures the face in a manner that prevents or
10 interferes with the identification of the officer.

11 (b) Every law enforcement officer and federal law
12 enforcement officer engaging in official duties in a public
13 setting shall display a visible form of identification on the
14 outermost garment of the officer's uniform. The identification
15 shall include the officer's name, agency, and unique badge
16 number.

17 (c) Each law enforcement agency shall:

18 (1) Establish and maintain written policies that are
19 available to the public to ensure compliance with this
20 section; and



1 (2) Ensure that all law enforcement officers receive
2 training on the requirements of this section.

3 (d) Law enforcement agencies shall provide identification
4 numbers or badges in a manner consistent with law enforcement
5 officer safety; provided that the identifying information
6 remains visible and usable to members of the public during any
7 public interaction.

8 (e) Subsections (a) and (b) shall not apply:

9 (1) In situations where a law enforcement officer or
10 federal law enforcement officer is engaged in an
11 active tactical operation, including special weapons
12 and tactics team responses or high-risk warrant
13 service, where facial coverings are necessary for
14 ballistic, respiratory, or operational safety;

15 (2) When the law enforcement officer or federal law
16 enforcement officer is acting in an undercover
17 operation authorized by supervising personnel or court
18 order and disclosure of identity would jeopardize the
19 safety of the officer or the integrity of the
20 operation; or



1 (3) When the use of protective equipment is required due
2 to hazardous environmental conditions, including
3 smoke, debris, biohazards, or other conditions where
4 respiratory or facial protection is necessary.

5 (f) As used in this section, "federal law enforcement
6 officer" has the same meaning as in section -1."

7 SECTION 3. Chapter 710, Hawaii Revised Statutes, is amended
8 by adding two new sections to part II to be appropriately
9 designated and to read as follows:

10 "§710- **Facial coverings and visible identification for**
11 **law enforcement officers.** (1) Except as expressly authorized in
12 this section:

13 (a) No law enforcement officer shall wear a facial
14 covering that conceals or obscures the law enforcement
15 officer's facial identity while the officer is
16 performing official duties; and

17 (b) Each law enforcement officer, at all times while on
18 duty, shall wear identification displayed in a manner
19 that is clearly visible and readable during direct
20 engagement with the public; displayed on the outermost



1 garment or gear; not obscured by tactical equipment,
2 body armor, or accessories; and that shall include:
3 (i) The full name or widely recognized initials of
4 the officer's employing agency; and
5 (ii) The officer's last name or unique badge or
6 identification number.

7 (2) This section shall not apply to an officer:
8 (a) Subject to one or more of the exemptions set forth in
9 section 139- (e);
10 (b) Assigned to a special weapons and tactics team unit
11 while actively performing special weapons and tactics
12 responsibilities; or
13 (c) Acting in the officer's capacity as an employee of an
14 agency that maintains and publicly posts on its website
15 a written policy pursuant to section 139- (c) (1).

16 (3) Violation of this section is a petty misdemeanor for
17 the first offense and a misdemeanor for the second or subsequent
18 offense.

19 (4) Notwithstanding any other law to the contrary, a person
20 who is found to have committed an assault, battery, false
21 imprisonment, false arrest, abuse of process, or malicious



1 prosecution, while wearing a facial covering or failing to comply
2 with visible identification requirements in violation of this
3 section shall not be entitled to assert any privilege or immunity
4 for the tortious conduct against a claim of civil liability and
5 shall be liable for the greater of actual damages or statutory
6 damages of at least \$10,000, whichever is greater.

7 (5) For the purposes of this section:

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

13 (a) A translucent face shield or clear mask that does not
14 conceal the wearer's facial identity and is used in
15 compliance with the employing agency's policy and
16 procedures pursuant to section 139-A;

17 (b) An N95 medical mask or surgical mask to protect against
18 transmission of disease or infection or any other mask,
19 helmet, or a device, including an air-purifying
20 respirator, full or half mask, or self-contained
21 breathing apparatus necessary to protect against



1 exposure to any toxin, gas, smoke, inclement weather,
2 or any other hazardous or harmful environmental
3 condition;

4 (c) A mask, helmet, or device, including a self-contained
5 breathing apparatus, necessary for underwater use;

6 (d) A motorcycle helmet when worn by an officer while in
7 the performance of their duties and utilizing a
8 motorcycle or other vehicle that requires a helmet for
9 safe operations; or

10 (e) Eyewear necessary to protect from the use of retinal
11 weapons, including lasers;

12 provided that the identification required under this section is
13 still visible.

14 "Law enforcement agency" has the same meaning as in 139- .

15 "Law enforcement officer" means any officer of a local,
16 state, or federal law enforcement agency, or any person acting
17 on behalf of a local, state, or federal law enforcement agency.

18 **§710- Unauthorized civil immigration interrogation,**
19 **arrest, or detention.** (1) A person commits the offense of
20 unauthorized civil immigration interrogation, arrest, or
21 detention if the person is a law enforcement officer, acting



1 under color of law, who intentionally or knowingly acts beyond
2 the scope of the law enforcement officer's lawful authority by
3 interrogating, arresting, or detaining another person for the
4 purpose of determining or enforcing the person's civil
5 immigration status when the law enforcement officer lacks
6 reasonable suspicion, based on specific and articulable facts,
7 that the person is unlawfully present in the United States.

8 (2) It shall be an affirmative defense that the law
9 enforcement officer's conduct consisted solely of:

10 (a) A stop, detention, or arrest supported by reasonable
11 suspicion or probable cause for a violation of state
12 law or county ordinance, including detention incident
13 to a lawful arrest; provided that the law enforcement
14 officer did not initiate or prolong the stop,
15 detention, or arrest for the purpose described in
16 subsection (1); or

17 (b) Compliance with a valid judicial warrant or court
18 order.

19 (3) Unauthorized civil immigration interrogation, arrest,
20 or detention is a class C felony.

21 (4) For purposes of this section:



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

4 "Interrogate" means to question a person in a manner
5 reasonably intended to elicit information regarding the person's
6 citizenship or civil immigration status, including requesting
7 immigration documentation, for the purpose of determining or
8 enforcing civil immigration status.

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

14 SECTION 4. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

Law Enforcement; State and County Law Enforcement; Federal Law Enforcement; State and Federal Collaboration; Visible Identification; Facial Coverings; Criminal Offenses

Description:

Establishes provisions limiting state and federal collaboration for purposes of immigration enforcement operations. Establishes identification and facial coverings standards for state and federal law enforcement officers. Establishes criminal offenses for improper facial coverings and lack of visible identification and unauthorized civil immigration interrogation, arrest, or detention. Effective 7/1/3000. (HD1)

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