

1 "Law enforcement agency" has the same meaning as in section
2 139-1.

3 "Law enforcement officer" has the same meaning as in
4 section 139-1.

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

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

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

18 § -2 **Limitation on state and federal collaboration;**
19 **immigration enforcement.** (a) Except as required by federal or
20 state law or pursuant to title 8 United States Code sections



1 1373 and 1644, no state or county departments or agencies shall
2 assist or cooperate with immigration enforcement operations.

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

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

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

19 § -3 **Limitation on state deputization.** A public
20 employee or law enforcement officer shall not request assistance
21 from a federal law enforcement officer for the enforcement of



1 state laws regarding check points, screenings, or motor vehicle
2 traffic stops.

3 § -4 **Agreements for criminal law enforcement.** (a) If a
4 law enforcement agency enters into an agreement with federal
5 authorities for the purpose of criminal law enforcement, the
6 agreement shall be in writing and shall not authorize the
7 participation of federal law enforcement officers or federal
8 authorities in checkpoints, screenings, or motor vehicle traffic
9 stops conducted at the direction, or with the assistance, of a
10 law enforcement agency or law enforcement officer.

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

17 § -5 **Task force; prohibition.** (a) No public employee,
18 law enforcement agency, or law enforcement officer shall take
19 part in or seek to enter an agreement with federal authorities
20 or out-of-state authorities for the purposes of collecting
21 personal information or providing assistance with surveillance,



1 investigations, or prosecution or an immigration enforcement
2 operation, including a joint federal-state operation such as a
3 federal Department of Homeland Security task force, fusion
4 center, or joint terrorism task force, if the public employee,
5 law enforcement agency, or law enforcement officer has reason to
6 believe the agreement would result in:

7 (1) Conduct that amounts to a violation of individual
8 liberties and rights guaranteed under the United
9 States Constitution or Hawaii State Constitution,
10 including racial profiling, unlawful surveillance or
11 investigation, excessive use of force, or unlawful
12 detention;

13 (2) Conduct that seeks to identify, apprehend, arrest, or
14 impose civil or criminal liability or other penalties
15 upon a person or entity for:

16 (A) Engaging in protected activities including
17 assembly, petitioning, and speech;

18 (B) The provision of humanitarian assistance, legal
19 assistance, or other aid to benefit an
20 individual;



- 1 (C) Civil immigration detention, removal, or
2 deportation proceedings;
3 (D) Offenses related to immigration status; or
4 (E) Nonfederal misdemeanors and violations, including
5 motor vehicle offenses and traffic violations; or

6 (3) An attempt to obtain data from a law enforcement
7 agency, conduct surveillance, or investigate domestic
8 terrorism and organized political violence in
9 furtherance of the objectives of National Security
10 Presidential Memorandum-7.

11 (b) Before the renewal or establishment of a new
12 agreement, the law enforcement agency shall seek and receive
13 written approval from the attorney general that the agreement is
14 in compliance with applicable state laws.

15 § -6 **Penalties.** Any person who violates this chapter
16 shall be guilty of a misdemeanor and upon conviction, the person
17 shall be fined no more than \$2,000 or imprisoned no more than
18 one year, or both.

19 § -7 **Safe harbor; good faith compliance.** No public
20 employee or law enforcement officer shall be subject to
21 penalties or civil liability for an act or omission taken in



1 good faith when attempting to comply with this chapter or when
2 responding to perceived federal authority."

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

6 "§139- Identification requirements; face coverings.

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

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

19 (c) Each law enforcement agency shall:



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

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

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

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

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

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



1 safety of the officer or the integrity of the
2 operation;

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

7 (4) In exigent circumstances involving an imminent danger
8 to persons or property, the escape of a perpetrator,
9 or the destruction of evidence, including if a law
10 enforcement officer or federal law enforcement officer
11 is responding to those circumstances while off duty.

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

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

17 "§710- Facial coverings and visible identification for
18 law enforcement officers. (1) Except as expressly authorized in
19 this section:

20 (a) No law enforcement officer shall wear a facial
21 covering that conceals or obscures the law enforcement



- 1 officer's facial identity while the officer is
2 performing official duties; and
- 3 (b) Each law enforcement officer, at all times while on
4 duty, shall wear identification displayed in a manner
5 that is clearly visible and readable during direct
6 engagement with the public; displayed on the outermost
7 garment or gear; not obscured by tactical equipment,
8 body armor, or accessories; and that shall include:
- 9 (i) The full name or widely recognized initials of
10 the officer's employing agency; and
- 11 (ii) The officer's last name or unique badge or
12 identification number.
- 13 (2) This section shall not apply to an officer:
- 14 (a) Subject to one or more of the exemptions set forth in
15 section 139- (e); or
- 16 (b) Assigned to a special weapons and tactics team unit
17 while actively performing special weapons and tactics
18 responsibilities.
- 19 (3) Violation of this section shall be a petty misdemeanor
20 for the first offense and a misdemeanor for the second or
21 subsequent offense.



1 (4) Notwithstanding any other law to the contrary, a law
2 enforcement officer who is found to have committed an assault,
3 battery, false imprisonment, false arrest, abuse of process, or
4 malicious prosecution, while wearing a facial covering or failing
5 to comply with visible identification requirements in violation
6 of this section shall not be entitled to assert any privilege or
7 immunity for the tortious conduct against a claim of civil
8 liability and shall be liable for the greater of actual damages
9 or statutory damages of at least \$10,000, whichever is greater.

10 (5) For the purposes of this section:

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

16 (a) A translucent face shield or clear mask that does not
17 conceal the wearer's facial identity;

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



1 breathing apparatus necessary to protect against
2 exposure to any toxin, gas, smoke, inclement weather,
3 or any other hazardous or harmful environmental
4 condition;

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

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

11 (e) Eyewear necessary to protect from the use of retinal
12 weapons, including lasers, or ordinary eyewear used for
13 sun protection;

14 provided that the identification required under this section is
15 still visible.

16 §710- _____ Unauthorized civil immigration interrogation,
17 arrest, or detention. (1) A person commits the offense of
18 unauthorized civil immigration interrogation, arrest, or
19 detention if the person is a law enforcement officer, acting
20 under color of law, who intentionally or knowingly acts beyond
21 the scope of the law enforcement officer's lawful authority by



1 interrogating, arresting, or detaining another person for the
2 purpose of determining or enforcing the person's civil
3 immigration status when the law enforcement officer lacks
4 reasonable suspicion, based on specific and articulable facts,
5 that the person is unlawfully present in the United States.

6 (2) Unauthorized civil immigration interrogation, arrest,
7 or detention shall be a class C felony.

8 (3) For purposes of this section:

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

12 "Interrogation" means to question a person in a manner
13 reasonably intended to elicit information regarding the person's
14 citizenship or civil immigration status, including requesting
15 immigration documentation, for the purpose of determining or
16 enforcing civil immigration status.

17 "Reasonable suspicion" shall not be based solely on race,
18 color, ethnicity, national origin, ancestry, language, accent,
19 religion, manner of dress, presence in a particular location, or
20 the exercise of rights protected by the United States
21 Constitution or the Constitution of the State of Hawaii."



1 SECTION 4. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 5. New statutory material is underscored.

8 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. (HD2)

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