
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, Hawaii is home to approximately
10 258,000 immigrants, comprising eighteen per cent of the State's
11 population. About thirty thousand of these foreign-born
12 individuals are believed to be undocumented. The legislature
13 recognizes that the State is justifiably proud of its rich
14 immigrant heritage, which is reflected in a valued tapestry of
15 races, ancestral groups, religions, cultures, and languages from
16 people throughout the world. Accordingly, it is necessary to
17 establish clear policies and limits on federal immigration



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

7 Accordingly, the purpose of this Act is to:

- 8 (1) By July 1, 2027, require each law enforcement agency
9 operating in the State to establish and publicly post
10 a written policy regarding:
- 11 (A) The use of facial coverings, visibility of
12 badges, and conspicuous marking of law
13 enforcement vehicles; and
- 14 (B) Civil immigration enforcement, including
15 procedures governing a law enforcement officer's
16 authority to make an inquiry into a person's
17 civil immigration status;
- 18 (2) Prohibit law enforcement officers from initiating or
19 prolonging a stop, detention, or arrest to determine a
20 person's civil immigration status, with certain
21 exemptions for reasonable suspicion;



1 (3) Establish as a policy of the department of law
2 enforcement that civil immigration activity involving
3 state or county participation or facilities shall only
4 proceed under certain conditions; and

5 (4) Establish criminal offenses for improper facial
6 coverings and lack of visible identification and
7 unauthorized civil immigration interrogation, arrest,
8 or detention.

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

12 **"§139-A Facial coverings; visible identification; marking**
13 **of vehicles; written policy.** (a) By July 1, 2027, each law
14 enforcement agency operating in the State shall establish and
15 publicly post on the agency's website a written policy regarding
16 the use of facial coverings, visibility of badges, and the
17 conspicuous marking of law enforcement vehicles.

18 (b) The policy shall include:

19 (1) A purpose statement affirming the agency's commitment
20 to:

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



- 1 (B) Restricting the use of facial coverings to
- 2 specific, clearly defined, and limited
- 3 circumstances; and
- 4 (C) The principle that generalized and
- 5 undifferentiated fear and apprehension about law
- 6 enforcement officer safety shall not be sufficient
- 7 to justify the use of facial coverings or the
- 8 concealment of badges;
- 9 (2) A requirement that:
- 10 (A) No law enforcement officer shall wear a facial
- 11 covering that conceals or obscures the law
- 12 enforcement officer's facial identity while the
- 13 officer is performing official duties;
- 14 (B) Each law enforcement officer, except for a
- 15 plainclothes officer, at all times while on duty,
- 16 shall wear identification displayed in a manner
- 17 that is clearly visible and readable during
- 18 direct engagement with the public; displayed on
- 19 the outermost garment or gear; not obscured by
- 20 tactical equipment, body armor, or accessories;
- 21 and that shall include:



- 1 (i) The full name or widely recognized initials
- 2 of the officer's employing agency; and
- 3 (ii) The officer's last name or unique badge or
- 4 identification number; and
- 5 (C) Each vehicle used in immigration enforcement
- 6 operations shall bear conspicuous markings
- 7 identifying the law enforcement agency to which
- 8 the vehicle belongs;
- 9 (3) A list of narrowly tailored exemptions for the
- 10 following:
- 11 (A) Active undercover operations or assignments
- 12 authorized by supervising personnel or court
- 13 order;
- 14 (B) Tactical operations where protective gear is
- 15 required for physical safety;
- 16 (C) Applicable law governing occupational health and
- 17 safety;
- 18 (D) Protection of identity during prosecution;
- 19 (E) Applicable law governing reasonable
- 20 accommodations; and



- 1 (F) Plainclothes officers, as designated by the
2 officer's agency; provided that no plainclothes
3 officer shall wear a facial covering that conceals
4 or obscures the plainclothes officer's facial
5 identity while the officer performs official
6 duties; provided further that a plainclothes
7 officer may wear a mask when the officer is within
8 eyesight of another officer from the same agency
9 who is unmasked while the masked plainclothes
10 officer performs official duties;
- 11 (4) Notice that opaque facial coverings shall only be used
12 when no other reasonable alternative exists and the
13 necessity is documented; provided that the
14 identification required under this policy is still
15 visible;
- 16 (5) Notice that, pursuant to the policy, a supervisor
17 shall not knowingly allow a law enforcement officer
18 under their supervision to violate state law or agency
19 policy regarding the use of a facial covering or
20 display of identification on the officer or vehicle;
21 and



1 (6) Appropriate penalties.
 2 (c) For the purposes of this section:
 3 "Facial covering" has the same meaning as defined in section
 4 710-A.

5 "Law enforcement agency" or "agency" includes any federal
 6 agency that employs law enforcement officers or other sworn
 7 personnel.

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

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

15 (b) The policy shall provide that:
 16 (1) Civil immigration enforcement activity involving state
 17 or county participation or facilities shall proceed
 18 only on the basis of documented, reviewable legal
 19 authority that prioritizes due process and judicial
 20 oversight;



- 1 (2) Civil immigration enforcement activity involving state
2 or county participation shall not be conducted at
3 schools or early-learning sites, health facilities,
4 emergency or domestic violence shelters, courthouses,
5 or places of worship, except in compliance with
6 narrowly tailored procedures for unavoidable civil
7 immigration actions;
- 8 (3) State and county agencies shall adopt clear limits on
9 the collection, retention, and sharing of
10 immigration-related personal data except as required
11 by law, and any interagency data exchanges shall
12 operate under auditable agreements;
- 13 (4) Each state or county agency shall periodically report
14 and make publicly available aggregate data on civil
15 immigration requests to or from the agency;
- 16 (5) Immigration-based threats or verification abuse shall
17 be treated as prohibited retaliation in workplaces and
18 public services pursuant to federal and state law; and
- 19 (6) When notified of United States Immigration and Customs
20 Enforcement activity, each state and county law
21 enforcement agency shall require nearby personnel to



1 use body cameras to monitor the United States
2 Immigration and Customs Enforcement agents'
3 interactions with the public.

4 (c) For the purposes of this section:

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

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

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

18 (b) No law enforcement officer shall initiate or prolong a
19 stop, detention, or arrest of a person for the purpose of
20 determining the person's civil immigration status unless the
21 officer has reasonable suspicion, based on specific and



1 articulable facts, that the person is unlawfully present in the
2 United States and the inquiry is otherwise authorized by state
3 law and the agency's written policy.

4 (c) Reasonable suspicion under subsection (b) shall not be
5 based solely on race, color, ethnicity, national origin,
6 ancestry, language, accent, religion, manner of dress, presence
7 in a particular location, or the exercise of rights protected by
8 the United States Constitution or Hawaii State Constitution.

9 (d) For the purposes of this section:

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

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

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

17 "§353C- Civil immigration enforcement policy. (a) It
18 shall be the policy of the department that civil immigration
19 enforcement activity involving state or county participation or
20 facilities shall proceed only on the basis of documented,



1 reviewable legal authority that prioritizes due process and
2 judicial oversight.

3 (b) Civil immigration enforcement activity involving state
4 or county participation shall not be conducted at schools,
5 early-learning sites, health care facilities, emergency or
6 domestic violence shelters, courthouses, or places of worship.

7 (c) No employee or agent acting on behalf of these
8 facilities listed in subsection (b) shall provide voluntary
9 consent permitting a law enforcement agent to enter a nonpublic
10 area of the facility for the purpose, or in furtherance, of an
11 operation executed in whole or part by federal authorities or
12 out-of-state authorities that seeks to:

13 (1) Identify or impose civil or criminal liability upon a
14 person or entity based on their participation in
15 activities protected by the First Amendment of the
16 United States Constitution or Hawaii State
17 Constitution; or

18 (2) To identify, arrest, or otherwise impose a penalty
19 upon a person for purposes of federal immigration
20 enforcement, including an immigration enforcement
21 operation.



1 (d) The policy under this section shall not prevent
2 compliance with a valid judicial warrant authorizing entry or
3 entry under exigent circumstances.

4 (e) The department shall assist state and county agencies
5 in maintaining compliance with the civil immigration enforcement
6 policy in this section."

7 SECTION 4. 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-A Use of a mask or facial covering by a law**
11 **enforcement officer.** (1) A person commits the offense of use
12 of a mask or facial covering by a law enforcement officer if the
13 person:

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

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



1 (a) Engaged in an authorized undercover assignment or
2 operation or conducting related duties in support of
3 an undercover assignment or operation; or

4 (b) Within the eyesight of another officer from the same
5 law enforcement agency who is unmasked.

6 (3) Use of a mask or facial covering by a law enforcement
7 officer shall be a misdemeanor.

8 (4) For the purposes of this section:

9 "Law enforcement agency" means any county police
10 department, the department of law enforcement, the department of
11 the attorney general, the division of conservation and resources
12 enforcement of the department of land and natural resources, and
13 any federal, state, or county public body that employs law
14 enforcement officers or other sworn personnel.

15 "Law enforcement officer" has the same meaning as in
16 section 139-A.

17 "Mask" or "facial covering" shall not include:

18 (a) A medical grade mask that is surgical or an N95
19 respirator designed to prevent the transmission of
20 airborne diseases;



- 1 (b) Equipment necessary for weather or underwater
- 2 protection;
- 3 (c) A mask designed to protect against exposure to smoke
- 4 during a state of emergency related to a wildfire;
- 5 (d) Protective gear used by law enforcement officers
- 6 necessary to safely perform official duties as a
- 7 member of the specialized services division, a special
- 8 weapons and tactics team, or a special response team;
- 9 (e) A face shield if the face shield does not conceal or
- 10 obscure the wearer's face; and
- 11 (f) A motorcycle helmet when worn by an officer while in
- 12 the performance of the officer's duties and utilizing
- 13 a motorcycle or other vehicle that requires a helmet
- 14 for safe operation; provided that the law enforcement
- 15 officer shall remove the mask or facial covering
- 16 before and after operating the motorcycle or vehicle
- 17 as soon as reasonably practicable. For the purposes
- 18 of this subsection, "motorcycle" has the same meaning
- 19 as defined in section 291C-1.

20 **§710-B Unauthorized civil immigration interrogation,**
21 **arrest, or detention.** (1) A person commits the offense of



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

10 (2) Unauthorized civil immigration interrogation, arrest,
11 or detention is a misdemeanor.

12 (3) For the purposes of this section:

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

16 "Interrogate" means to question a person who is stopped,
17 detained, or arrested in a manner reasonably intended to elicit
18 information regarding the person's citizenship or civil
19 immigration status, including requesting immigration
20 documentation, for the purpose of determining or enforcing civil
21 immigration status.



1 "Reasonable suspicion" shall not be based solely on race,
2 color, ethnicity, national origin, ancestry, language, accent,
3 religion, manner of dress, presence in a particular location, or
4 the exercise of rights protected by the United States
5 Constitution or the Constitution of the State of Hawaii."

6 SECTION 5. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 6. If any provision of this Act, or the
10 application thereof to any person or circumstance, is held
11 invalid, the invalidity does not affect other provisions or
12 applications of the Act that can be given effect without the
13 invalid provision or application, and to this end the provisions
14 of this Act are severable.

15 SECTION 7. In codifying the new sections added by sections
16 2 and 4 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 8. New statutory material is underscored.

20 SECTION 9. This Act shall take effect on July 1, 3000.



Report Title:

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

Description:

By 7/1/2027, requires each law enforcement agency operating in the State to establish and publicly post a written policy regarding the use of facial coverings, visibility of badges, and conspicuous marking of law enforcement vehicles and civil immigration enforcement, including procedures governing a law enforcement officer's authority to make an inquiry into a person's civil immigration status. Prohibits law enforcement officers from initiating or prolonging a stop, detention, or arrest to determine a person's civil immigration status, with certain exemptions for reasonable suspicion. Establishes as a policy of the Department of Law Enforcement that civil immigration activity involving state or county participation or facilities shall only proceed under certain conditions. 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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