
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 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 require
18 the department to assist with compliance; and
- 19 (3) Establish criminal offenses for:
- 20 (A) Improper facial coverings and lack of visible
21 identification for law enforcement officers; and



1 (B) Unauthorized civil immigration interrogation,
2 arrest, or 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) Notice that opaque facial coverings shall only be used
5 when no other reasonable alternative exists, and the
6 necessity is documented; provided that the
7 identification required under this policy is still
8 visible;

9 (5) Notice that, pursuant to the policy, a supervisor
10 shall not knowingly allow a law enforcement officer
11 under their supervision to violate state law or agency
12 policy regarding the use of a facial covering or
13 display of identification on the officer or vehicle;
14 and

15 (6) Appropriate penalties.

16 (c) A policy adopted pursuant to this section shall be
17 deemed consistent with section 710-A unless a written complaint
18 challenging its legality is submitted to the head of the agency
19 by a member of the public, an oversight body, or a local
20 governing authority, at which time the agency shall be afforded
21 ninety days to correct any deficiencies in the policy. If, after



1 ninety days, the agency has failed to adequately address the
2 complaint, the complaining party may proceed to a court of
3 competent jurisdiction for a judicial determination of whether an
4 exemption applies pursuant to section 710-A(2). The agency's
5 policy and its employees' exemptions shall remain in effect
6 unless a court rules that the agency's policy is not in
7 compliance with section 710-A and all potential appeals to higher
8 courts have been exhausted by the agency.

9 (d) For the purposes of this section:

10 "Facial covering" has the same meaning as defined in
11 section 710-A.

12 "Law enforcement agency" includes any federal agency that
13 employs law enforcement officers or other sworn personnel.

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

17 **§139-B Civil immigration enforcement; written policy.** (a)

18 By July 1, 2027, each law enforcement agency operating in the
19 State shall establish and publicly post on its website a written
20 policy regarding civil immigration enforcement in the State.

21 (b) The policy shall provide that:



- 1 (1) Civil immigration enforcement activity involving state
2 or county participation or facilities shall proceed
3 only on the basis of documented, reviewable legal
4 authority that prioritizes due process and judicial
5 oversight;
- 6 (2) Civil immigration enforcement activity involving state
7 or county participation shall not be conducted at
8 schools or early-learning sites, health facilities,
9 emergency or domestic violence shelters, courthouses,
10 or places of worship, except in compliance with
11 narrowly tailored procedures for unavoidable civil
12 immigration actions;
- 13 (3) State and county agencies shall adopt clear limits on
14 the collection, retention, and sharing of
15 immigration-related personal data except as required
16 by law, and any interagency data exchanges shall
17 operate under auditable agreements;
- 18 (4) Each state or county agency shall periodically report
19 and make publicly available aggregate data on civil
20 immigration requests to or from the agency;



1 (5) Immigration-based threats or verification abuse shall
2 be treated as prohibited retaliation in workplaces and
3 public services pursuant to state and federal law; and

4 (6) When notified of United States Immigration and Customs
5 Enforcement activity, each state and county law
6 enforcement agency shall require nearby personnel to
7 use body cameras to monitor the United States
8 Immigration and Customs Enforcement agents'
9 interactions with the public.

10 (c) For the purposes of this section:

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

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

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



1 documentation for purposes of determining civil immigration
2 status.

3 (b) No law enforcement officer shall initiate or prolong a
4 stop, detention, or arrest of a person for the purpose of
5 determining the person's civil immigration status unless the
6 officer has reasonable suspicion, based on specific and
7 articulable facts, that the person is unlawfully present in the
8 United States and the inquiry is otherwise authorized by state
9 law and the agency's written policy.

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

16 (d) For the purposes of this section:

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

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



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

4 "§353C- Civil immigration enforcement policy. (a) It is
5 the policy of the department that civil immigration enforcement
6 activity involving state or county participation or facilities
7 shall proceed only on the basis of documented, reviewable legal
8 authority that prioritizes due process and judicial oversight.

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

13 (c) No employee or agent acting on behalf of these
14 facilities shall provide voluntary consent permitting a law
15 enforcement agent to enter a nonpublic area of the facility for
16 the purpose, or in furtherance, of an operation executed in
17 whole or part by federal authorities or out-of-state authorities
18 that seeks to:

19 (1) Identify or impose civil or criminal liability upon a
20 person or entity based on their participation in



1 activities protected by the First Amendment of the
 2 United States Constitution or state constitution; or
 3 (2) To identify, arrest or otherwise impose a penalty upon
 4 a person for purposes of federal immigration
 5 enforcement, including an immigration enforcement
 6 operation.

7 (d) This policy shall not prevent compliance with a valid
 8 judicial warrant authorizing entry or entry under exigent
 9 circumstances.

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

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

16 "§710-A Facial coverings and visible identification for law
 17 enforcement officers. (1) Except as expressly authorized in
 18 this section:

19 (a) No law enforcement officer shall wear a facial
 20 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 outmost
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-A(b) (3);

16 (b) Assigned to a special weapons and tactics team unit
17 while actively performing special weapons and tactics
18 responsibilities; or

19 (c) Acting in the officer's capacity as an employee of an
20 agency that maintains and publicly posts on its



1 website, no later than July 1, 2027, a written policy
2 pursuant to section 139-A.

3 (3) Violation of this section shall be a petty misdemeanor
4 for the first offense and a misdemeanor for the second or
5 subsequent offense.

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

15 (5) For the purposes of this section:

16 "Facial covering" means any opaque mask, garment, helmet,
17 headgear, or other item that conceals or obscures the facial
18 identity of an individual, including a balaclava, tactical mask,
19 gaiter, ski mask, and any similar type of facial covering or
20 face-shielding item. "Facial covering" does not include:



- 1 (a) A translucent face shield or clear mask that does not
2 conceal the wearer's facial identity and is used in
3 compliance with the employing agency's policy and
4 procedures pursuant to section 139-A;
- 5 (b) An N95 medical mask or surgical mask to protect against
6 transmission of disease or infection or any other mask,
7 helmet; or a device, including an air-purifying
8 respirator, full or half mask, or self-contained
9 breathing apparatus necessary to protect against
10 exposure to any toxin, gas, smoke, inclement weather,
11 or any other hazardous or harmful environmental
12 condition;
- 13 (c) A mask, helmet, or device, including a self-contained
14 breathing apparatus, necessary for underwater use;
- 15 (d) A motorcycle helmet when worn by an officer while in
16 the performance of their duties and utilizing a
17 motorcycle or other vehicle that requires a helmet for
18 safe operations; or
- 19 (e) Eyewear necessary to protect from the use of retinal
20 weapons, including lasers;



1 provided that the identification required under this section is
2 still visible.

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

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

12 **§710-B Unauthorized civil immigration interrogation,**
13 **arrest, or detention.** (1) A person commits the offense of
14 unauthorized civil immigration interrogation, arrest, or
15 detention if the person is a law enforcement officer, acting
16 under color of law, who intentionally or knowingly acts beyond
17 the scope of the officer's lawful authority by interrogating,
18 arresting, or detaining another person for the purpose of
19 determining or enforcing the person's civil immigration status
20 when the officer lacks reasonable suspicion, based on specific



1 and articulable facts, that the person is unlawfully present in
2 the United States.

3 (2) It shall be an affirmative defense that the officer's
4 conduct consisted solely of:

5 (a) A stop, detention, or arrest supported by reasonable
6 suspicion or probable cause for a violation of state
7 law or county ordinance, including detention incident
8 to a lawful arrest; provided that the officer did not
9 initiate or prolong the stop, detention, or arrest for
10 the purpose described in subsection (1); or

11 (b) Compliance with a valid judicial warrant or court
12 order.

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

15 (4) For the purposes of this section:

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

19 "Interrogate" means to question a person in a manner
20 reasonably intended to elicit information regarding the person's
21 citizenship or civil immigration status, including requesting



1 immigration documentation, for the purpose of determining or
2 enforcing civil immigration status.

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

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

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

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

21 SECTION 8. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval.



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 improper facial coverings, lack of visible identification, and unauthorized civil immigration interrogation. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

