THE SENATE
THIRTY-THIRD LEGISLATURE, 2026
STATE OF HAWAII

S.B. NO. 3322 S.D. 1

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that law enforcement officers' use of masks and other methods to obscure individual officer identity can lead to fear, intimidation, and public distrust. To prevent these negative views of law enforcement, other jurisdictions have adopted standards to ensure that law enforcement personnel and their vehicles are clearly identifiable.

The legislature further finds that, according to the American Immigration Council, Hawaii is home to approximately two hundred fifty-eight thousand immigrants, comprising eighteen per cent of the State's population. About thirty thousand of these foreign-born individuals are believed to be undocumented. The legislature recognizes that the State is justifiably proud of its rich immigrant heritage, which has woven many residents into a valued tapestry of races, ancestral groups, religions, cultures, and languages from people throughout the world. Accordingly, it is necessary to establish clear policies and

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

Accordingly, the purpose of this Act is to:

(1) Prohibit, with certain exceptions, the use of facial coverings; require the visible identification of law enforcement officers and their vehicles in the performance of their duties; and require state and county law enforcement agencies to adopt related policies;

(2) Establish a policy on civil immigration enforcement and status inquiries under the department of law enforcement; require state and county law enforcement agencies to establish their own policies; and require the department to assist with compliance; and

(3) Establish criminal offenses for:

(A) Improper facial coverings and lack of visible identification for law enforcement officers; and

(B) Unauthorized civil immigration interrogation, arrest, or detention.

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

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

(b) The policy shall include:

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

(A) Transparency, accountability, and public trust;

(B) Restricting the use of facial coverings to specific, clearly defined, and limited circumstances; and

(C) The principle that generalized and undifferentiated fear and apprehension about law enforcement officer safety shall not be sufficient

to justify the use of facial coverings or the concealment of badges;

(2) A requirement that:

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

(B) Each law enforcement officer, except for a plainclothes officer, at all times while on duty, shall wear identification displayed in a manner that is clearly visible and readable during direct engagement with the public; displayed on the outmost garment or gear; not obscured by tactical equipment, body armor, or accessories; and that shall include:

(i) The full name or widely recognized initials of the officer's employing agency; and

(ii) The officer's last name or unique badge or identification number; and

(C) Each vehicle used in immigration enforcement operations shall bear conspicuous markings

identifying the law enforcement agency to which the vehicle belongs;

(3) A list of narrowly tailored exemptions for the following:

(A) Active undercover operations or assignments authorized by supervising personnel or court order;

(B) Tactical operations where protective gear is required for physical safety;

(C) Applicable law governing occupational health and safety;

(D) Protection of identity during prosecution;

(E) Applicable law governing reasonable accommodations; and

(F) Plainclothes officers, as designated by the officer's agency; provided that no plainclothes officer shall wear a facial covering that conceals or obscures the plainclothes officer's facial identity while the officer performs official duties; provided further that a plainclothes officer may wear a mask when the officer is within

eyesight of another officer from the same agency who is unmasked while the masked plainclothes officer performs official duties;

(4) Notice that opaque facial coverings shall only be used when no other reasonable alternative exists, and the necessity is documented; provided that the identification required under this policy is still visible;

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

(6) Appropriate penalties.

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

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

(d) For the purposes of this section:

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

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

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

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

(b) The policy shall provide that:

(1) Civil immigration enforcement activity involving state or county participation or facilities shall proceed only on the basis of documented, reviewable legal authority that prioritizes due process and judicial oversight;

(2) Civil immigration enforcement activity involving state or county participation shall not be conducted at schools or early-learning sites, health facilities, emergency or domestic violence shelters, courthouses, or places of worship, except in compliance with narrowly tailored procedures for unavoidable civil immigration actions;

(3) State and county agencies shall adopt clear limits on the collection, retention, and sharing of immigration-related personal data except as required by law, and any interagency data exchanges shall operate under auditable agreements;

(4) Each state or county agency shall periodically report and make publicly available aggregate data on civil immigration requests to or from the agency;

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

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

(c) For the purposes of this section:

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

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

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

documentation for purposes of determining civil immigration status.

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

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

(d) For the purposes of this section:

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

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

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

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

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

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

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

activities protected by the First Amendment of the United States Constitution or state constitution; or

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

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

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

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

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

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

officer's facial identity while the officer is performing official duties; and

(b) Each law enforcement officer, at all times while on duty, shall wear identification displayed in a manner that is clearly visible and readable during direct engagement with the public; displayed on the outmost garment or gear; not obscured by tactical equipment, body armor, or accessories; and that shall include:

(i) The full name or widely recognized initials of the officer's employing agency; and

(ii) The officer's last name or unique badge or identification number.

(2) This section shall not apply to an officer:

(a) Subject to one or more of the exemptions set forth in section 139-A(b)(3);

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

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

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

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

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

(5) For the purposes of this section:

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

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

(b) An N95 medical mask or surgical mask to protect against transmission of disease or infection or any other mask, helmet; or a device, including an air-purifying respirator, full or half mask, or self-contained breathing apparatus necessary to protect against exposure to any toxin, gas, smoke, inclement weather, or any other hazardous or harmful environmental condition;

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

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

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

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

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

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

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

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

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

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

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

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

(4) For the purposes of this section:

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

"Interrogate" means to question a person 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.

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

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

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

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

SECTION 8. New statutory material is underscored.

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

S.B. NO. 3322 S.D. 1

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)

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