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# 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) Use of a mask or facial covering by a law  
21 enforcement officer; 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) For the purposes of this section:

17       "Facial covering" has the same meaning as defined in section  
18 710-A.

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



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

4 **§139-B Civil immigration enforcement; written policy.** (a)  
5 By July 1, 2027, each law enforcement agency operating in the  
6 State shall establish and publicly post on its website a written  
7 policy regarding civil immigration enforcement in the State.

8 (b) The policy shall provide that:

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

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



- 1        (3) State and county agencies shall adopt clear limits on  
2        the collection, retention, and sharing of  
3        immigration-related personal data except as required  
4        by law, and any interagency data exchanges shall  
5        operate under auditable agreements;
- 6        (4) Each state or county agency shall periodically report  
7        and make publicly available aggregate data on civil  
8        immigration requests to or from the agency;
- 9        (5) Immigration-based threats or verification abuse shall  
10       be treated as prohibited retaliation in workplaces and  
11       public services pursuant to state and federal law; and
- 12       (6) When notified of United States Immigration and Customs  
13       Enforcement activity, each state and county law  
14       enforcement agency shall require nearby personnel to  
15       use body cameras to monitor the United States  
16       Immigration and Customs Enforcement agents'  
17       interactions with the public.
- 18       (c) For the purposes of this section:  
19       "Law enforcement agency" has the same meaning as defined in  
20       section 139-A.



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

3 **§139-C Civil immigration status inquiries; documentation;**  
4 **limitations.** (a) Each law enforcement agency operating in the  
5 State shall include in its written policy required under  
6 section 139-B procedures governing a law enforcement officer's  
7 authority to make any inquiry into a person's civil immigration  
8 status, including the authority to ask a person about  
9 citizenship, immigration status, place of birth, or request  
10 documentation for purposes of determining civil immigration  
11 status.

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

19 (c) Reasonable suspicion under subsection (b) shall not be  
20 based solely on race, color, ethnicity, national origin,  
21 ancestry, language, accent, religion, manner of dress, presence



1 in a particular location, or the exercise of rights protected by  
2 the United States Constitution or the Hawaii State Constitution.

3 (d) For the purposes of this section:

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

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

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

11 "§353C- Civil immigration enforcement policy. (a) It is  
12 the policy of the department that civil immigration enforcement  
13 activity involving state or county participation or facilities  
14 shall proceed only on the basis of documented, reviewable legal  
15 authority that prioritizes due process and judicial oversight.

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

20 (c) No employee or agent acting on behalf of these  
21 facilities shall provide voluntary consent permitting a law



1 enforcement agent to enter a nonpublic area of the facility for  
2 the purpose, or in furtherance, of an operation executed in  
3 whole or part by federal authorities or out-of-state authorities  
4 that seeks to:

5 (1) Identify or impose civil or criminal liability upon a  
6 person or entity based on their participation in  
7 activities protected by the First Amendment of the  
8 United States Constitution or Hawaii State  
9 Constitution; or

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

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

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



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

4 **"§710-A Use of a mask or facial covering by a law**  
5 **enforcement officer.** (1) A person commits the offense of use  
6 of a mask or facial covering by a law enforcement officer if the  
7 person:

8 (a) Is a law enforcement officer; and

9 (b) Wears a mask or facial covering that conceals or  
10 obscures the person's facial identity while  
11 interacting with the public in the performance of the  
12 law enforcement officer's duties.

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

15 (a) Engaged in an authorized undercover assignment or  
16 operation or conducting related duties in support of  
17 an undercover assignment or operation; or

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

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



1        (4) For the purposes of this section:

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

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

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

12        (a) A medical grade mask that is surgical or an N95  
13 respirator designed to prevent the transmission of  
14 airborne diseases;

15        (b) Equipment necessary for weather or underwater  
16 protection;

17        (c) A mask designed to protect against exposure to smoke  
18 during a state of emergency related to a wildfire;

19        (d) Protective gear used by law enforcement officers  
20 necessary to safely perform official duties as a



1 member of the specialized services division, a special  
2 weapons and tactics team, or a special response team;  
3 (e) A face shield if the face shield does not conceal or  
4 obscure the wearer's face; and  
5 (f) A motorcycle helmet when worn by an officer while in  
6 the performance of the officer's duties and utilizing  
7 a motorcycle or other vehicle that requires a helmet  
8 for safe operation; provided that the law enforcement  
9 officer shall remove the mask or facial covering  
10 before and after operating the motorcycle or vehicle  
11 as soon as reasonably practicable.

12 "Motorcycle" has the same meaning as defined in section  
13 291C-1.

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



1 when the officer lacks reasonable suspicion, based on specific  
2 and articulable facts, that the person is unlawfully present in  
3 the United States.

4 (2) Unauthorized civil immigration interrogation, arrest,  
5 or detention is a misdemeanor.

6 (3) For the purposes of this section:

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

10 "Interrogate" means to question a person who is stopped,  
11 detained, or arrested in a manner reasonably intended to elicit  
12 information regarding the person's citizenship or civil  
13 immigration status, including requesting immigration  
14 documentation, for the purpose of determining or enforcing civil  
15 immigration status.

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



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

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

10 SECTION 7. In codifying the new sections added by sections  
11 2 and 4 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 8. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on March 22, 2075.



**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 use of a mask or facial covering by a law enforcement officer, lack of visible identification, and unauthorized civil immigration interrogation. Effective 3/22/2075. (SD2)

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