

## HB 4138 -7 STAFF MEASURE SUMMARY

### House Committee On Judiciary

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**Meeting Dates:** 2/4, 2/16

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#### WHAT THE MEASURE DOES:

The measure **creates new rules around law enforcement** identification and prohibition of law enforcement facial coverings, restricts how and when public bodies in Oregon can cooperate with out-of-state law enforcement, and creates a cause of action and a violation offense related to violations of the requirements. The measure declares an emergency and is effective on passage.

#### Detailed Summary

##### **Law Enforcement Identifiability**

Requires law enforcement agencies operating in Oregon to issue written policies on identification of its sworn officers (§1) and general prohibition of facial coverings (§§7–9), requires the policies to include specified components, and allows members of the public and other entities to formally object to the policies. §§1(1)–(2). Prohibits law enforcement officers in Oregon from wearing facial coverings that obscure their identity while on duty except in limited, specified circumstances. §8. Defines terms.

Expands the application of the crowd management law enforcement identification requirements in ORS 181A.700 and 181A.702 to all law enforcement agencies and officers operating in the state—including federal law enforcement and law enforcement from another state—instead of just state or local law enforcement officers assigned to work crowd management in cities larger than 60,000 people. §3. Excludes undercover officers and delays changes to ORS 181A to 120 days after the measure takes effect.

Creates the offense of *misrepresentation by a law enforcement officer*, a Class A violation, if a law enforcement officer misrepresents, refuses to identify, or obscures or conceals the identity of the agency they are working for. §10. Adds federal officers to and clarifies the definition of “peace officer” in the crime of *criminal impersonation of a peace officer*. §11.

##### **Assistance with Federal or Out-of-State Law Enforcement Operations**

Prohibits public employees in Oregon from assisting federal law enforcement or law enforcement from another state with investigating, apprehending, or arresting people because of specified protected reasons—such as conduct protected by the First Amendment of the U.S. Constitution, membership in a protected class, and others—and requires public bodies in Oregon to establish policies restricting when people acting as an employee or agent of the public body can assist or cooperate with out-of-state law enforcement. §§12–14. Allows public bodies and their employees or agents to assist out-of-state law enforcement on request if the out-of-state law enforcement agency attests that the request for assistance does not violate the policy or statutory prohibitions. §14a.

Adds requirements when public bodies in Oregon participate in joint task forces or agreements with out-of-state law enforcement for the cross-deputization of law enforcement officers. §15(1). Prohibits such participation when the agreement would involve specified operations, such as violating liberties or rights guaranteed by the federal or state constitutions or identifying or apprehending people for engaging in First Amendment activities, for offenses related to immigration status, or for subjecting someone to civil immigration detention, removal, or deportation (among others). §15(2). Prohibits state or local law enforcement officers deputized as federal agents

from exercising federal law enforcement authority in a way that violates Oregon law and clarifies that such cross-deputized officers are not immune from violations of state or local law. §§15(3)–(4). Creates transparency rules for state and local law enforcement agreements with out-of-state law enforcement agencies.

**Cause of Action**

Creates causes of action to determine if the written policies required by the measure meet the requirements if a law enforcement agency fails to correct the policy after an objection. §§1(3), 7(4). Creates a cause of action for persons harmed by violations of *criminal impersonation of a peace officer*, officer identification requirements, and other provisions of the measure. §20(1). Allows a successful plaintiff to recover damages and attorney fees and costs and prohibits defendants from asserting any privilege or immunity. §§20(3)–(4). Allows for an injunction to restrain a threatened or actual violation of the measure's provisions. §21. Provides that volunteers in the Oregon State Police Civil Defense Force or a County Civil Defense Force are subject to certain public body liability statutes for acting within the scope of their volunteer duties. §19.

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

-7 The amendment replaces the measure and establishes identifiability requirements for officers of law enforcement agencies operating in Oregon, regardless of whether the agency is federal, out-of-state, or within Oregon. It requires law enforcement agencies operating in Oregon to have a public policy generally restricting the use of facial coverings by its on-duty officers and prohibits law enforcement officers from wearing facial coverings on duty except in specific circumstances. The amendment limits when a public body or state or local law enforcement agency may cooperate with federal or out-of-state law enforcement agencies. The amendment creates a cause of action to seek an injunction against a law enforcement agency or public body for violating the provisions on facial coverings, identifiability, and cooperation with federal or out-of-state law enforcement. The amendment declares an emergency and is effective on passage.

Detailed Summary

Makes legislative declarations relating to law enforcement interactions with Oregonians, law enforcement transparency, and facial coverings.

**Law Enforcement Identifiability Requirements (Sections 1–6)**

Requires "law enforcement agencies" to ensure that its on-duty officers wear a uniform clearly displaying the officer's last name or ID number, the agency's name, and an official badge. Makes exceptions for specific activities, such as undercover operations. Defines "law enforcement agency" to include federal, out-of-state, state, and local law enforcement agencies" and defines other terms.

Requires law enforcement agencies to maintain a public policy on facial covering use by on-duty officers. Requires the policy to restrict facial covering use by on-duty officers to limited circumstances and requires the policy to contain a list of exceptions as described in section 4(2) of the measure. Requires law enforcement agencies operating in Oregon to have the policy in place no later than 180 days after the measure takes effect. Creates a process for challenging a policy issued by an agency for not meeting the requirements.

Prohibits "facial covering" use by law enforcement officers while performing official duties. Defines "facial covering" to be an opaque item that conceals or obscures the facial identity of an individual and states that it does not include specified medical, underwater, emergency, or safety masks. Makes exceptions for undercover officers, to protect an officer's face while performing "tactical duties," as defined, or during extreme weather. Disallows the use of the exceptions for officers performing duties within 250 feet of a ballot deposit location, voting booth, or area for marking ballots at a time when votes are being collected or counted for a federal or state election.

**Assistance with Federal or Out-of-State Law Enforcement Operations** (Sections 7–11)

Prohibits employees of a "state or local law enforcement agency" or "public body," as those terms are defined in section 7, from intentionally assisting a federal or out-of-state law enforcement agency in investigating, apprehending, or arresting people if such activity is being done

- On the basis of a person's exercise of constitutional rights related to speech, expression, association, or assembly;
- On the basis of a person's membership in a protected class; or
- As part of an unlawful search or seizure or other unconstitutional surveillance activity.

Makes exceptions for actions required by law, by judicial subpoena, or regarding the provision of public information. Requires state and local law enforcement agencies and public bodies to establish public policies within 180 days of the measure taking effect prohibiting their employees from intentionally providing assistance in operations executed in whole or in part by a federal or out-of-state law enforcement agency if the person is aware that the operation is intended to impose civil or criminal liability on individuals or groups for engaging in certain constitutionally-protected activities, for belonging to a protected class, or for having certain political, religious, or social views, associations, or activities.

Allows for an exception if the federal or out-of-state agency requesting assistance or cooperation provides a sworn attestation that the request does not violate these prohibitions.

**Status of Volunteers in Civil Defense Force** (Section 12)

Adds volunteers in the Oregon State Police or County Civil Defense Force to "agents" who are subject to the Oregon Tort Claims Act for the purpose of acts and omissions of the volunteer within the course and scope of their duties.

**Cause of Action** (Section 13)

Establishes a cause of action to enjoin a law enforcement agency or public body that violates the identifiability requirements (including those relating to facial coverings) or that violates the new prohibitions and policy requirements for cooperation with out-of-state and federal law enforcement. Provides for a defense if the agency or public body was compelled to provide prohibited information or assistance by a compulsory court-issued legal process.

*Fiscal Impact: May have fiscal impact, but no statement yet issued*

*Revenue Impact: Has minimal revenue impact*

**BACKGROUND:**

Federal law enforcement operations in Oregon have recently come under increased scrutiny, in part because of the federalization and deployment of members of the Oregon National Guard in Portland in 2025 and increased immigration enforcement operations by Immigrations and Customs Enforcement. [Reports](#) have raised concerns about Immigration and Customs Enforcement officers wearing face masks and failing to identify themselves to the people they have arrested. Several jurisdictions have proposed laws to regulate the masking and identification of law enforcement officers, including California ([SB627](#), passed), New York ([S08462](#)), Tennessee ([SB2011](#)), and the U.S. Congress ([H.R. 4004](#), [S.2212](#)).