

HOUSE AMENDMENTS TO HOUSE BILL 4138

By COMMITTEE ON JUDICIARY

February 18

On page 1 of the printed bill, delete line 3 and insert “339.035; and declaring an emergency.”.

After line 3, insert:

“Whereas the Legislative Assembly affirms that law enforcement agencies in Oregon are committed to the principles of transparency, accountability and public trust; and

“Whereas Oregonians expect to feel safe when interacting with law enforcement officials; and

“Whereas law enforcement officers rely on trust to build legitimacy within their communities, which is accomplished by allowing the public the ability to identify officers and communicate with them openly; and

“Whereas facial coverings and masks, which conceal facial identity and expression, can undermine that trust; and

“Whereas interaction with law enforcement officers whose faces are visible can reduce fear and anxiety during stressful encounters; and

“Whereas Oregonians expect all law enforcement agencies and officers who operate within this state to abide by the principles of transparency, accountability and public trust; and

“Whereas it shall be the policy of the State of Oregon that all law enforcement officers operating in Oregon must not wear masks or any facial coverings, except for specific, limited exceptions including undercover operations, Special Weapons and Tactics (SWAT) operations, fire protection, health and safety and other necessary uses; now, therefore,”.

Delete lines 5 through 16 and delete pages 2 through 10 and insert:

“LAW ENFORCEMENT IDENTIFIABILITY REQUIREMENTS

“(Identification Requirements)”

“SECTION 1. (1) A law enforcement agency operating within this state shall ensure that, while on duty and actively engaged in official law enforcement activities, each law enforcement officer wears a uniform clearly and visibly displaying:

“(a) The last name of the officer or a unique identifying number associated with the officer in an agency record;

“(b) The name of the employing agency; and

“(c) An officially issued badge.

“(2) This section does not apply to a law enforcement officer who:

“(a) Is engaged in undercover duties as part of the regular performance of the officer’s official duties.

“(b) Is engaged in security or escort details as part of the regular performance of the officer’s official duties.

1 “(a) Any law enforcement agency that employs a peace officer as defined in ORS 133.005.

2 “(b) Any federal law enforcement agency.

3 “(c) Any law enforcement agency of another state.

4 “(3) ‘Law enforcement officer’ means an individual employed or contracted as an officer
5 of a law enforcement agency.

6 “**SECTION 3.** (1) A law enforcement agency operating within this state shall maintain and
7 publicly post a written policy on the use of facial coverings by all sworn law enforcement
8 officers performing official duties for the agency.

9 “(2) The policy must include, at a minimum, the following:

10 “(a) A restriction on the use of facial coverings to specific, clearly defined and limited
11 circumstances;

12 “(b) A requirement that all sworn law enforcement officers performing official duties for
13 the agency not wear a facial covering while performing official duties; and

14 “(c) A list of narrowly tailored exceptions from the facial covering prohibition as de-
15 scribed in section 4 (2) of this 2026 Act.

16 “(3) A supervisor may not knowingly allow a law enforcement officer under the
17 supervisor’s supervision to violate state law or agency policy limiting the use of facial cov-
18 erings.

19 “(4) A member of the public, a law enforcement oversight body or a local governing au-
20 thority may object to a policy adopted under this section, on the grounds that the policy does
21 not conform with the requirements of this section, by submitting a written objection to the
22 head of the law enforcement agency. The agency shall have 180 days to correct any defi-
23 ciencies in the policy. If, after 180 days, the agency fails to adequately address the objection,
24 the objecting party may seek an injunction against the law enforcement agency, in the cir-
25 cuit court for any county in which an office of the agency is located, to restrain an actual
26 or threatened violation of the requirements of this section.

27 “(5) Nothing in this section or section 4 of this 2026 Act preempts a local government
28 from enacting an ordinance requiring law enforcement agencies operating within the local
29 government’s jurisdiction to adopt a policy that is more stringent than the requirements of
30 this section, so long as the policy includes the exceptions from the facial covering prohibition
31 as described in section 4 (2) of this 2026 Act.

32 “**SECTION 4.** (1) A law enforcement officer may not wear a facial covering that conceals
33 or obscures the officer’s facial identity while performing official duties except as described
34 in subsection (2) of this section.

35 “(2) Subsection (1) of this section does not apply to a law enforcement officer:

36 “(a) Engaged in undercover duties in the regular performance of the officer’s official
37 duties.

38 “(b) Assigned to a tactical response team, while actively performing tactical duties, if a
39 facial covering is necessary to protect the officer’s face from physical harm while performing
40 such duties. For purposes of this paragraph, ‘tactical response team’ includes:

41 “(A) A Special Weapons and Tactics (SWAT) team.

42 “(B) A hazardous device, bomb or explosive ordnance disposal unit.

43 “(C) A chemical, biological, radiological, nuclear or explosive (CBRNE) response unit.

44 “(D) A tactical K-9 unit assigned to support high-risk warrant service, hostage rescue,
45 armed barricade response or active shooter response.

1 “(c) Working in extreme or severely inclement weather, including freezing temperatures,
2 high wind or highly dusty conditions.

3 “(3) Notwithstanding subsection (2) of this section, during any time period in which votes
4 for any state or federal election are being collected or tabulated, a law enforcement officer
5 may not, under any circumstances, wear a facial covering while performing official duties
6 within 250 feet of:

7 “(a) A place of deposit for ballots cast in an election described in ORS 254.470;

8 “(b) A compartment, shelf or table for the marking of ballots described in ORS 254.472;
9 or

10 “(c) A voting booth provided under ORS 254.474.

11 “SECTION 5. A law enforcement agency, as defined in section 2 of this 2026 Act, operat-
12 ing within this state shall adopt the policy described in section 3 of this 2026 Act no later
13 than 180 days after the effective date of this 2026 Act.

14 “SECTION 6. Section 4 of this 2026 Act becomes operative 180 days after the effective
15 date of this 2026 Act.

16
17 “ASSISTANCE WITH FEDERAL OR OUT-OF-STATE
18 LAW ENFORCEMENT OPERATIONS
19

20 “SECTION 7. As used in sections 8 to 10 of this 2026 Act:

21 “(1) ‘Public body’ means a public body, as defined in ORS 174.109, and the Oregon Health
22 and Science University.

23 “(2) ‘State or local law enforcement agency’ means an entity that employs a peace officer
24 as defined in ORS 133.005.

25 “SECTION 8. (1) An employee of a state or local law enforcement agency or any other
26 public body within this state is prohibited from, within the scope of the person’s employment,
27 intentionally assisting a federal law enforcement agency or a law enforcement agency of
28 another state in investigating, apprehending or arresting individuals if the employee knows
29 that the investigation, apprehension or arrest is occurring:

30 “(a) On the basis of an individual’s conduct protected by Article I, section 8 or 26, of the
31 Oregon Constitution, or the First Amendment to the United States Constitution, including
32 speech, expression, association or assembly;

33 “(b) On the basis of an individual’s membership in, or support of another individual based
34 on the other individual’s membership in, a class of persons protected under the Oregon or
35 United States Constitution or other state or federal law, including classes based on race,
36 color, religion, sex, sexual orientation, gender identity, national origin, marital status, disa-
37 bility or age; or

38 “(c) As part of an unlawful search or seizure or other surveillance activity conducted in
39 violation of Article I, section 9, of the Oregon Constitution, or the Fourth Amendment to the
40 United States Constitution.

41 “(2) The following do not violate subsection (1) of this section:

42 “(a) Any action or conduct required by state or federal law.

43 “(b) Any action or conduct required by a judicial subpoena issued as part of a court
44 proceeding or by another compulsory court-issued legal process.

45 “(c) The provision of information, to the extent that the information is available to the

1 general public and is provided under the same terms and conditions as the information is
2 available to the general public.

3 **“SECTION 9.** (1) All state or local law enforcement agencies and other public bodies
4 within this state shall establish policies prohibiting any person acting in the person’s capac-
5 ity as an employee or agent of the agency or public body from intentionally assisting or in-
6 tentionally cooperating with, or intentionally allowing any time, money, facilities, property,
7 equipment, personnel or other resources to be used to assist, cooperate with or facilitate,
8 any operation executed in whole or in part by a federal law enforcement agency or a law
9 enforcement agency of another state, if the person is aware that the operation is intended
10 to:

11 **“(a)** Identify, or impose civil or criminal liability upon, any individual, group, association,
12 organization, corporation, business or partnership based on participation in activities pro-
13 tected by Article I, section 8 or 26, of the Oregon Constitution, or the First Amendment to
14 the United States Constitution;

15 **“(b)** Identify, or impose civil or criminal liability upon, any individual, group, association,
16 organization, corporation, business or partnership based on membership in, or support of a
17 person based on the person’s membership in, a class of persons protected under the Oregon
18 or United States Constitution or other state or federal law, including classes based on race,
19 color, religion, sex, sexual orientation, gender identity, national origin, marital status, disa-
20 bility or age; or

21 **“(c)** Identify, or impose civil or criminal liability upon, any individual, group, association,
22 organization, corporation, business or partnership based on political, religious or social
23 views, associations or activities.

24 **“(2)** The policies described in this section must be based on existing procedures used by
25 the state or local law enforcement agency or other public body to evaluate and respond to
26 external information or assistance requests from outside entities, including governmental
27 requests for information or assistance.

28 **“SECTION 10.** Notwithstanding sections 8 and 9 of this 2026 Act, a state or local law
29 enforcement agency or other public body, or an employee or agent of a state or local law
30 enforcement agency or other public body, may upon request provide assistance or cooperate
31 with, or allow time, money, facilities, property, equipment, personnel or other resources to
32 be used to assist, cooperate with or facilitate, an operation executed in whole or in part by
33 a federal law enforcement agency or a law enforcement agency of another state if the re-
34 questing federal or out-of-state law enforcement agency includes in the request an
35 attestation, made under penalty of perjury, stating that the request does not relate to an
36 operation or other activity prohibited by section 8 of this 2026 Act or a policy adopted pur-
37 suant to section 9 of this 2026 Act.

38 **“SECTION 11.** All state or local law enforcement agencies and other public bodies, as
39 those terms are defined in section 7 of this 2026 Act, within this state shall adopt a policy
40 described in section 9 of this 2026 Act no later than 180 days after the effective date of this
41 2026 Act.

42
43 **“STATUS OF VOLUNTEERS IN CIVIL DEFENSE FORCE**
44

45 **“SECTION 12.** ORS 399.035 is amended to read:

1 “399.035. (1) In addition to the federally recognized Oregon National Guard subject to call or
2 order to federal service under laws of the United States, there shall be organized within the state
3 a National Guard Reserve force. Such force shall be known as the Oregon Civil Defense Force, and
4 shall be composed principally of officers, warrant officers and enlisted persons not eligible for gen-
5 eral service under federal selective service laws.

6 “(2) In time of peace the Oregon Civil Defense Force shall be maintained at cadre strength in
7 numbers to be determined by the Governor.

8 “(3) In time of peace the mission of the Oregon Civil Defense Force shall be to augment the
9 Oregon National Guard as an internal security force. In time of war, it shall replace the Oregon
10 National Guard as a force when the National Guard is ordered into federal service.

11 “(4) Whenever laws of the United States authorize the organization of such forces under federal
12 recognition, the Governor shall promulgate such regulations as are necessary to comply with such
13 federal laws and obtain federal recognition for the force authorized by this section.

14 “(5) Notwithstanding subsections (1) to (4) of this section:

15 “(a) The Superintendent of State Police may form a volunteer Oregon State Police Civil Defense
16 Force for the purpose of providing emergency response and communications, medical assistance, lo-
17 gistical support and other aid authorized by the superintendent. The superintendent, in collaboration
18 with the Adjutant General, may assign delegate members of the Oregon State Police Civil Defense
19 Force to command centers throughout this state.

20 “(b) The sheriff of a county in this state may form a volunteer County Civil Defense Force for
21 the purpose of providing emergency response and communications, medical assistance, logistical
22 support and other aid authorized by the sheriff.

23 “(6) Volunteers in the Oregon State Police Civil Defense Force or a County Civil Defense Force
24 must possess and demonstrate experience or training in the military, law enforcement, communi-
25 cations, rescue operations or logistical support.

26 “(7)(a) Volunteers in the Oregon State Police Civil Defense Force or a County Civil Defense
27 Force are not, by virtue of volunteering in the force, considered:

28 “(A) Members of the Oregon Civil Defense Force;

29 “(B) Employees or volunteers of the state; **or**

30 “(C) In ‘state service,’ as that term is defined in ORS 240.015[; or].

31 “[*(D) Agents of a public body under ORS 30.260 to 30.300 (Oregon Tort Claims Act) for the pur-*
32 *pose of acts and omissions of the volunteer that are within the course and scope of the volunteer’s du-*
33 *ties.*]

34 “**(b) Volunteers in the Oregon State Police Civil Defense Force or a County Civil Defense**
35 **Force are agents of a public body under ORS 30.260 to 30.300 for the purpose of acts and**
36 **omissions of the volunteer that are within the course and scope of the volunteer’s duties.**

37 “[*(b)*] (c) Unless entitled to compensation, reimbursement, benefits or coverage under any other
38 provision of law, volunteers in the Oregon State Police Civil Defense Force or a County Civil De-
39 fense Force are not entitled to compensation, reimbursement for expenses, workers’ compensation
40 or other insurance coverage, public employment benefits or entitlements from the Oregon Military
41 Department, the Oregon Department of Emergency Management or any other state or local agency
42 or government.

43
44 “CAUSE OF ACTION
45

1 **“SECTION 13.** (1) Any person may seek an injunction against a law enforcement agency,
2 as defined in section 1 of this 2026 Act, operating in this state to restrain a threatened or
3 actual violation of section 1, 3, 4 or 5 of this 2026 Act.

4 **“(2)** Any person may seek an injunction against a public body or a state or local law
5 enforcement agency, as those terms are defined in section 7 of this 2026 Act, operating in
6 this state to restrain a threatened or actual violation of section 8, 9, 10 or 11 of this 2026
7 Act.

8 **“(3)** A defendant in an action under this section may assert as a defense that the de-
9 fendant is or was compelled to provide prohibited information or assistance, including infor-
10 mation or assistance as may be required by a judicial subpoena issued as part of a court
11 proceeding or by another compulsory court-issued legal process.

12
13 **“CAPTIONS**
14

15 **“SECTION 14.** The unit captions used in this 2026 Act are provided only for the conven-
16 ience of the reader and do not become part of the statutory law of this state or express any
17 legislative intent in the enactment of this 2026 Act.

18
19 **“EMERGENCY CLAUSE**
20

21 **“SECTION 15.** This 2026 Act being necessary for the immediate preservation of the public
22 peace, health and safety, an emergency is declared to exist, and this 2026 Act takes effect
23 on its passage.”.
24
