

Duplicates/Conflicts with/Companion to/Relates to:

HB208 addresses law enforcement officers not concealing their identity, which is also a subject addressed by part of SB57.

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB208, sections A and B create a new crime committed by an on-duty peace officer who wears a mask, other than one to prevent the transmission of airborne diseases or to protect from exposure to wildfire smoke, or when interacting with the public fails to carry on the peace officer's person identifying credentials showing the peace officer's name, rank and law enforcement agency of employment, conspicuously display the peace officer's name, badge number, rank and agency, and present for inspection the identifying credentials to a member of the public upon request. In addition, HB208, section C creates a crime if an on-duty peace officer "knowingly or willfully conceals the peace officer's identity, including the peace officer's face, or the name of the peace officer's law enforcement agency of employment." HB208, section E makes these crimes a misdemeanor.

HB208, section D creates exceptions to this crime for a peace officer conducting a sanctioned undercover operation, is on a team performing special weapons and tactics responsibilities, or is conducting an explosive recovery and disposal operation. HB208, section F defines several terms, including "peace officer" as "a federal, state or local full-time salaried or certified part-time salaried officer who by virtue of office or public employment is vested by law with the duty to maintain the public peace."

PERFORMANCE IMPLICATIONS

Courts can expect additional caseload from this new crime, addressing the constitutionality and meaning terms constituting the crime as well as the impact of explicitly adding federal officers to the definition of "peace officer" in the new crime.

ADMINISTRATIVE IMPLICATIONS

See Performance Implications above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB208 covers some ground that duplicates the new crimes proposed in SB57, Concealing Identity of a Peace Officer.

TECHNICAL ISSUES

None noted.

SUBSTANTIVE ISSUES

State Law Requirements for Federal Officers

The identification requirements and criminal provisions of HB208 include federal officers. In *Mesa v. California*, 489 U.S. 121 (1989) the United States Supreme Court affirmed the state’s right to prosecute federal postal workers Kathryn Mesa for misdemeanor-manslaughter and driving outside a laned roadway after she drove her mail truck into and killed a bicyclist and Shabbir Ebrahim for speeding and failure to yield after his mail truck collided with a police car. Although they were both executing duties as federal postal workers, they were not being prosecuted for crimes for which either could assert a federal defense. By contrast, in the foundational Supremacy Clause case of *In re Nagle*, 135 US 1 (1890), the Supreme Court held that a federal marshal assigned to protect a Supreme Court justice could not be prosecuted in California state court for murder after he shot and killed an attacker, finding that the marshal was carrying out his official duties and was justified in killing the attacker as part of those duties.

These cases reflect a long history of conflict between state and federal authorities over state prosecution of federal officers. That history appears to be entering an active phase. “As state and local officials increasingly clash with federal officials over immigration enforcement, policing of protests, and much more, they could soon turn to a long-used tactic of state pushback: prosecuting federal agents or officials for violations of state laws. This practice stretches back to at least the early 1800s, and it comes with a mixed track record. Some state prosecutions of federal actors are relatively non-controversial, like charging postal workers for reckless driving while on the job. Others involve core disputes between states and the federal government, including on desegregation, slavery, and prohibition.” Bryna Godar, *Can States Prosecute Federal Officials?*, State Democracy Research Initiative, University of Wisconsin Law School (July 17, 2025) found at (p.1, footnotes omitted): https://statedemocracy.law.wisc.edu/featured/2025/explainer-can-states-prosecute-federal-officials/#_ftn57.

It is not clear how a challenge to prosecution of a federal officer for one of the new crimes in HB208 will be resolved. It is clear that such challenges will arise when a federal officer is charged under the proposed statute. The outcome will require consideration of fundamental constitutional principles by the courts.

Issues Related to Obscuring a Police Officer’s Identity

Beyond any issues relating to the State’s ability to prosecute a federal officer, HB208 addresses an area of significant public interest in legislation requiring police officers to clearly identify their law enforcement status and not obscure identity with face masks or other means, especially focused on federal officers working as agents of the Immigration Customs and Enforcement Agency (ICE) of the Department of Homeland Security, a group of federal officers who would be covered by the new crimes in HB208.

In recent months, federal U.S. Immigration and Customs Enforcement (ICE) and other federal law enforcement officers—roaming the streets in plainclothes, masked, and sometimes armed—have stoked fear in communities nationwide. These federal agents

have been seen swinging batons, smashing car windows, using explosives to blow the door off of a home with children inside, emerging from unmarked vehicles with weapons drawn, shooting into a family vehicle, and grabbing people off of the street and putting them into unmarked vehicles. In cities such as Los Angeles, Minneapolis, Phoenix, and Miami, officers donning face coverings without an agency designation and driving unmarked vehicles have conducted immigration enforcement actions at schools, courthouses, religious institutions, and work sites. Meanwhile, in Washington, D.C., hundreds of officers from nearly 20 federal agencies, D.C. National Guard troops, and National Guard troops from six other states have been deployed to the streets, with masked U.S. Department of Homeland Security (DHS) agents manning checkpoints for drivers. This is the new, frightening image of U.S. immigration enforcement under President Donald Trump: violence, covered faces, and unknown agency affiliations. These images signal a troubling move “away from democratic controls,” where officers are visible and accountable to the communities they serve, and toward militarization that serves to instill fear and stifle dissent.

Masked and Unidentifiable: The Risks of Federal Law Enforcement Operating Without Identification, Allie Preston, Center for American Progress (CAP) Report (August 28, 2025) found at: [Masked and Unidentifiable: The Risks of Federal Law Enforcement Operating Without Identification - Center for American Progress](#)

Concerns about insufficient identification of ICE agents caused Attorneys General from 21 states, including New Mexico, to send a letter to Congress urging action to require clear identification of federal agents; “to consider and advance legislation that would generally prohibit federal immigration agents from wearing masks that conceal their identity and require them to show their identification and agency-identifying insignia. It is shocking that we have reached a point in America where such a common-sense set of measures must be enshrined into law. But in light of recent events, such legislation is necessary to protect the public, ensure accountability, and preserve the reputation and effectiveness of law enforcement at every level of government.” Letter found at: [letter-to-congress-on-ice-mask-legislation-letter-2025.pdf](#)

While such concerns certainly include the aim of lowering the threat level of ICE interactions with civilians, there are also concerns that failure of ICE agents to adequately display their status leads to greater danger for both law enforcement agents and civilians. A recent example demonstrates the dangers.

Two police officers arrive at the defendant’s home in southeast Houston at 11:00 p.m. to serve a warrant for burglary. Because the defendant lives in a high-crime area, the officers are wearing body armor and have their badges prominently displayed around their necks. In line with the growing trend among federal law enforcement officers to wear face masks during immigration arrests, so too are these officers. But the defendant is suspicious. After all, the officers did not show up in a marked police car. There were no lights and sirens running. The defendant refuses to open the door, later admitting that the officers did not really look like cops. When he refuses to open his door, an argument ensues. The officers and defendant exchange fire. Witnesses hear twenty-two rounds. The officers are killed instantly. This is the type of danger that police face every day. This tragedy recently occurred in Houston, Texas, with one key difference. The now-deceased officers who arrived in an unmarked car wearing face masks, body

armor, and badges *were not actually police officers*. They were criminal copycats mimicking U.S. Immigration and Customs Enforcement (ICE) tactics touted by the Trump administration in recent immigration raids. And they are not the only ones.

Masq-or-Raid: Why Concealing Cops' Identities Creates Reasonable Doubt When Cops Are Victims, Brandon Marc Draper, Texas Law Review Online Edition, Volume 104, (2025-2026) (footnotes omitted), found at: [Masq-or-Raid: Why Concealing Cops' Identities Creates Reasonable Doubt When Cops Are Victims | Texas Law Review](#).

The public perception that ICE officers operate without identification and with their identities obscured by masks and other measures may increase the public's suspicion and heighten the perceived threat that supposed ICE agents are instead criminals imitating law enforcement officers. Such concerns are among several that have motivated state proposals to require officers, including federal ICE agents, to display clear identification and not be masked or otherwise obscure their identity.

In response to immigration raids by masked federal officers in Los Angeles and across the nation, two California lawmakers on Monday proposed a new state law to ban members of law enforcement from concealing their faces while on the job. The bill would make it a misdemeanor for local, state and federal law enforcement officers to cover their faces with some exceptions, and also encourage them to wear a form of identification on their uniform. "We're really at risk of having, effectively, secret police in this country," said state Sen. Scott Wiener (D-San Francisco), co-author of the bill.

Sam Levin, *The Alarming Rise of US Officers Hiding Behind Masks: 'A Police State'*, GUARDIAN (June 25, 2025, at 08:00 ET), <https://www.theguardian.com/us-news/2025/jun/25/immigration-officers-wearing-masks> [<https://perma.cc/QB2Q-R3CS>].

In response to Senator Wiener's legislative proposal, some members of federal law enforcement entities claimed that the law would endanger ICE agents because identifying them would encourage retaliation such as doxing or threats to family, although no specific incidents were identified. Senator Wiener countered by saying the proposed statute "would make it clearer who is a police officer and who is not, which would be essential in the wake of the politically motivated killing of a Minnesota state lawmaker and her husband, and the attempted killing of another politician and his wife. The suspect, Vance Boelter, is accused of knocking on the doors of the lawmakers in the middle of the night and announcing himself as a police officer to get them to open up, authorities said." *Id.*

Another aspect of this issue is the concern that federal law allows prosecution of a defendant for assault and murder of a federal officer without proof that the defendant knew or reasonably should have known the victim was a federal officer. The only intent the government must prove is the intent to commit an assault. *United States v. Fiola*, 420 U.S.671, 684 (1975). By contrast, “in many states, quite the opposite is true. In Texas, for example, to prove murder or assault of a police officer, one element the State must prove beyond a reasonable doubt is that the defendant knows the victim is a police officer at the time of the incident.” *Masq-or-Raid*, *supra*. Requiring clear identification of federal officers would advance the ability of state prosecutors to prove knowledge of the law enforcement officer’s status when prosecuting under state law those who assault or kill a state or federal law enforcement officer.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The status quo is maintained.

AMENDMENTS

None noted.