

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 Creates the new misdemeanor crime of Unlawful Concealing of the Identity of a Peace Officer. The crime occurs when the peace officer conceals the peace officer's "face, badge, name or employer in a manner that causes a person to reasonably believe the officer is acting without lawful authority." The fourth-degree felony of aggravated concealing of the peace officer's identity occurs when the peace officer does so "with the intent to deceive or intimidate a person or the public at large or to interfere with the creation of a public record." A "peace officer is a federal, state or local full-time salaried or certified parttime salaried officer who by office or public employment is vested by law with the duty to maintain the public peace."

Section 2 Amends the existing crime of Impersonating a Peace Officer in section 30-27-2.1 by amending the existing definition of "peace officer" in that statute to mirror the one provided in Section 1.

Section 3 Places restrictions on what are colloquially know as bail bondsmen, not peace officers. In attempting to take custody of a person with an outstanding bail bond warrant, such persons may wear clothing with the words "Bail Bond Recovery Agent", "Bail Enforcement" or "Bail Enforcement Agent", if "displayed in letters at least two inches high across the front or back of the jacket, shirt or vest and in a contrasting color to that of the jacket, shirt or vest."

Such persons "shall not:" "represent that person's self in a manner as being a sworn peace officer;" wear a uniform that represents that person's self as belonging to or part of federal, state or local government; display the words "United States", "bureau", "task force", "federal" or other substantially similar words that a reasonable person may mistake for a government agency; display a badge that represents that person's self as part or department of a federal, state or local government; use a fictitious name that represents that person's self as belonging to a federal, state or local government; engage in immigration enforcement, "except pursuant to a valid judicial warrant or court order;" and (7) disclose in writing, verbally or otherwise the "personally identifiable information of a bail fugitive that is requested for purposes of immigration enforcement, except pursuant to a valid judicial warrant or court order."

The proposed statute does not prohibit a government entity from exchanging immigration information with a federal, state or local agency. The proposed statute also defines "immigration enforcement."

PERFORMANCE IMPLICATIONS

Courts can expect additional caseload from this new crime, addressing the constitutionality and meaning terms constituting impersonating an officer, the impact of explicitly adding federal officers to the definition of "peace officer" in the new and existing statutes, and determining the meaning of the provisions on immigration enforcement and information sharing.

ADMINISTRATIVE IMPLICATIONS

See Performance Implications above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None known as of January 21, 2026.

TECHNICAL ISSUES

It is both a Technical and Substantive Issue that Section 3 appears to intend a violation of its provisions to be subject to a consequence, but none is provided. If violation of this provision is found to be a crime and no penalty is provided, it will be a petty misdemeanor pursuant to NMSA Sections 31-18-13D and 30-1-6. NMSA Section 31-19-B provides that the penalty for a petty misdemeanor is up to 6 months in the county detention center, a fine up to \$500, or both.

SUBSTANTIVE ISSUES

State Law Requirements for Federal Officers

Section 1 includes “federal officer” as a peace officer who can commit the new crime of unlawful concealing of the identity of a peace officer. 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 federal officers in the new crimes in Section 1 of SB57 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, SB57 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.

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 Weiner said 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

If it is consistent with legislative intent, provide a level of crime for the actions identified in Section 3.