

## HB 4138 -1, -3 STAFF MEASURE SUMMARY

### House Committee On Judiciary

**Prepared By:** Jules Dellinger, LPRO Analyst

**Meeting Dates:** 2/4

#### 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:**

- 1 Summary to follow.
- 3 Summary to follow.

**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](#)).