

ADVERTISEMENT

LIVE: Trump administration

John Bolton

Latest AP-NORC polls

Apple-F1 deal

Ty Dolla \$ign

U.S. NEWS

How covering your face became a constitutional matter: Mask debate tests free speech rights



BY CHRISTINE FERNANDO

Updated 7:15 AM EDT, June 23, 2025

[Leer en español](#)



CHICAGO (AP) — Many of the protesters who flooded President Donald Trump's immigration crackdown were drawing scorn from him.

"MASKS WILL NOT BE ALLOWED to be worn at protests," Trump posted on his social media

platform, adding that mask-wearing protesters should be arrested.

Protesters and their supporters argue Trump's comments and repeated calls by the Republican president's allies to ban masks at protests are an attempt to stifle popular dissent. They also note a double standard at play: In Los Angeles and elsewhere, protesters were at times confronted by officers who had their faces covered. And some U.S. Immigration and Customs Enforcement agents have worn masks while carrying out high-profile raids in Los Angeles and other cities.

All of which begs the question: Can something that covers your mouth protect free speech? Protesters say the answer is an emphatic yes. Several legal experts say it's only a matter of time before the issue returns to the courts.

'What do these people have to hide, and why?'

Trump's post calling for a ban on masks came after [immigration raids sparked protests](#), which included some reports of vandalism and violence toward police.

"What do these people have to hide, and why?" he asked on Truth Social on June 8.

The next day, Trump raged against the anti-ICE protests, calling for the arrest of people in face masks.

It's not a new idea. Legal experts and First Amendment advocates warn of a rising number of laws banning masks being wielded against protesters and their impacts on people's right to protest and privacy amid mounting surveillance.

The legal question became even more complicated when Democratic lawmakers in California [introduced legislation](#) aiming to stop federal agents and local police officers from wearing face masks. That came amid concerns ICE agents were attempting to hide their identities and avoid accountability for potential misconduct.

"The recent federal operations in California have created a sense of terror," state Sen. Scott Wiener said in a press release.

Department of Homeland Security Assistant Secretary for Policy and Planning said the California bill "despicable."

"While ICE officers are being assaulted by rioters and having rocks and Molotov cocktails

thrown at them, a sanctuary politician is trying to outlaw officers wearing masks to protect themselves from being doxed and targeted by known and suspected terrorist sympathizers,” McLaughlin said in a statement.

State restrictions on mask-wearing

At least 18 states and Washington, D.C., have laws that restrict masks and other face coverings, said Elly Page, senior legal adviser with the International Center for Not-For-Profit Law. Since October 2023, at least 16 bills have been introduced in eight states and Congress to restrict masks at protests, the center says.

The laws aren’t just remnants of the coronavirus pandemic. Many date back to the 1940s and ’50s, when many states passed anti-mask laws as a response to the Ku Klux Klan, whose members hid their identities while terrorizing victims. Amid protests against the war in Gaza and [Trump’s immigration policies](#), Page said there have been attempts to revive these rarely used laws to target protesters.

Page also raised concerns about the laws being enforced inconsistently and only against movements the federal government doesn’t like.

In May, North Carolina Senate Republicans [passed a plan](#) to repeal a pandemic-era law that allowed the wearing of masks in public for health reasons, a move spurred in part by demonstrations against the war in Gaza where some protesters wore masks. The suburban New York county of Nassau [passed legislation](#) in August to ban wearing masks in public.

Ohio Attorney General Dave Yost, a Republican, last month sent a letter to the state’s public universities stating protesters could be charged with a felony under the state’s anti-mask law. Administrators at the University of North Carolina have warned protesters that wearing masks violates the state’s anti-mask law, and University of Florida students [arrested during a protest](#) were charged with wearing masks in public.

An unresolved First Amendment question

People may want to cover their faces while protesting for a variety of reasons, including to

protect their health, for religious reasons, to avoid government retaliation, to prevent surveillance and doxing, or to protect themselves from tear gas, said Tim Zick, law professor at William and Mary Law School.

“Protecting protesters’ ability to wear masks is part of protecting our First Amendment right to peacefully protest,” Zick said.

Geoffrey Stone, a University of Chicago law professor, said the federal government and Republican state lawmakers assert that the laws are intended not to restrict speech but to “restrict unlawful conduct that people would be more likely to engage in if they can wear masks and that would make it more difficult for law enforcement to investigate if people are wearing masks.”

Conversely, he said, First Amendment advocates oppose such laws because they deter people from protesting if they fear retaliation.

Stone said the issue is an “unresolved First Amendment question” that has yet to be addressed by [the U.S. Supreme Court](#), but the court “has made clear that there is a right to anonymity protected by the First Amendment.” Few of these laws have been challenged in court, Stone said. And lower-court decisions on mask bans are mixed, though several courts have struck down broader anti-mask laws for criminalizing peaceful expression.

Aaron Terr, director of public advocacy at the Foundation for Individual Rights and Expression, said the right to speak anonymously has “deep roots in the nation’s founding, including when anonymous pamphlets criticizing British rule circulated in the colonies.”

Federal agents wearing masks

“The right to speak anonymously allows Americans to express dissenting or unpopular opinions without exposing themselves to retaliation or other consequences,” Terr said.

First Amendment advocacy groups and Democratic lawmakers have criticized the attempt by ICE agents to escape accountability and in a recent congressional hearing, Minnesota Gov. Tim Walz, a Democrat, urged ICE agents to wear masks during raids, saying: “Don’t wear masks. Identif



Viral videos appeared to show residents of Martha's Vineyard in Massachusetts [confronting federal agents](#), asking them to identify themselves and explain why they were wearing masks. U.S. Rep. Bill Keating, a Democrat who represents Cape Cod, decried "the decision to use unmarked vehicles, plain clothed officers and masks" in a June 2 letter to federal officials.

Republican federal officials, meanwhile, have maintained that masks protect agents from doxing.

"I'm sorry if people are offended by them wearing masks, but I'm not going to let my officers and agents go out there and put their lives on the line and their family on the line because people don't like what immigration enforcement is," ICE acting Director Todd Lyons said.

**CHRISTINE FERNANDO**

Fernando is a democracy reporter covering misinformation, reproductive rights and state supreme courts for The Associated Press.



MOST READ



- 1 Who's winning the blame game over the shutdown? Here's what a new AP-NORC poll shows
- 2 For the first time, a California county removed its sheriff over misconduct allegations
- 3 Journalists turn in access badges, exit Pentagon rather than agree to new reporting rules
- 4 Ace Frehley, Kiss' original lead guitarist and founding member, dies at 74
- 5 Iowa Democrat Jackie Norris ends US Senate campaign, citing Des Moines superintendent's ICE arrest

