

HOUSE BILL No. 5394

December 30, 2003, Introduced by Reps. Julian, Howell, Stakoe and Newell and referred to the Committee on Judiciary.

A bill to restrict the use and disclosure of certain statements made by law enforcement officers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Involuntary statement" means a statement made by a law
3 enforcement officer in response to a question by the law
4 enforcement agency by which he or she is employed, if both of the
5 following apply:

6 (i) The law enforcement officer is explicitly ordered to
7 answer the question under threat of dismissal from employment or
8 other employment sanction.

9 (ii) By making the statement, the law enforcement officer's
10 constitutional privilege against self-incrimination would be
11 violated.

12 (b) "Law enforcement agency" means the department of state

1 police, the department of natural resources, or a law enforcement
2 agency of a county, township, city, or village that is
3 responsible for the prevention and detection of crime and
4 enforcement of the criminal laws of this state.

5 (c) "Law enforcement officer" means an officer of the
6 department of state police, a law enforcement agency of a county,
7 township, city, or village who is responsible for the prevention
8 and detection of crime and enforcement of the criminal laws of
9 this state, or a conservation officer.

10 Sec. 2. An involuntary statement made by a law enforcement
11 officer, and any information derived directly or indirectly from
12 that involuntary statement, shall not be used against the law
13 enforcement officer in a criminal proceeding.

14 Sec. 3. An involuntary statement made by a law enforcement
15 officer is a confidential communication that is not open to
16 public inspection. The statement, or a record of the statement,
17 may be disclosed by the law enforcement agency only under 1 or
18 more of the following circumstances:

19 (a) With the written consent of the law enforcement officer
20 who made the statement.

21 (b) To a prosecuting attorney pursuant to subpoena or court
22 order in a pending criminal proceeding. However, a prosecuting
23 attorney who obtains an involuntary statement or a record of the
24 statement under this subdivision shall not disclose the contents
25 of the statement except as ordered by the court having
26 jurisdiction over the criminal proceeding.

27 (c) To officers of, or legal counsel for, the law enforcement

1 agency or the collective bargaining representative of the law
2 enforcement officer, or both, for use in an administrative or
3 legal proceeding involving a law enforcement officer's employment
4 status with the law enforcement agency, or to defend the law
5 enforcement agency in a civil action. However, a person who
6 receives an involuntary statement or record of the statement
7 under this subdivision shall not disclose the statement for any
8 reason not allowed under this subdivision, or make it available
9 for public inspection, without the written consent of the law
10 enforcement officer who made the statement.

11 Sec. 4. An involuntary statement is not subject to
12 discovery in a civil action except as allowed under this act.