

**SUBSTITUTE FOR
HOUSE BILL NO. 5394**

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 complying with the order, the law enforcement officer
10 is being required to waive the constitutional privilege against
11 self-incrimination.

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, village, airport authority,
3 community college, or university, that is responsible for the
4 prevention and detection of crime and enforcement of the criminal
5 laws of this state.

6 (c) "Law enforcement officer" means a person who is trained
7 and certified under the commission on law enforcement standards
8 act, 1965 PA 203, MCL 28.601 to 28.616.

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

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

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

20 (b) To a prosecuting attorney or the attorney general
21 pursuant to a search warrant, subpoena, or court order, including
22 an investigative subpoena issued under chapter VIIA of the code
23 of criminal procedure, 1927 PA 175, MCL 767a.1 to 767a.9.
24 However, a prosecuting attorney or attorney general who obtains
25 an involuntary statement under this subdivision shall not
26 disclose the contents of the statement except to a law
27 enforcement agency working with the prosecuting attorney or

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1 attorney general or as ordered by the court having jurisdiction
2 over the criminal matter or, as constitutionally required, to the
3 defendant in a criminal case.

4 (c) To officers of, or legal counsel for, the law enforcement
5 agency or the collective bargaining representative of the law
6 enforcement officer, or both, for use in an administrative or
7 legal proceeding involving a law enforcement officer's employment
8 status with the law enforcement agency or to defend the law
9 enforcement agency or law enforcement officer in a [criminal] action.
10 However, a person who receives an involuntary statement or record
11 of the statement under this subdivision shall not disclose the
12 statement for any reason not allowed under this subdivision, or
13 make it available for public inspection, without the written
14 consent of the law enforcement officer who made the statement.
15 Sec. 4. An involuntary statement is not subject to
16 discovery in a civil action except as allowed under this act.