

HOUSE BILL No. 5414

November 8, 2005, Introduced by Rep. Green 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 answer
7 the question under threat of dismissal from employment or other
8 employment sanction.

9 (ii) By complying with the order, the law enforcement officer

1 is being required to waive the constitutional privilege against
2 self-incrimination.

3 (b) "Law enforcement agency" means the department of state
4 police, the department of natural resources, or a law enforcement
5 agency of a county, township, city, village, airport authority,
6 community college, or university, that is responsible for the
7 prevention and detection of crime and enforcement of the criminal
8 laws of this state.

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

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

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

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

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

1 the statement except to a law enforcement agency working with the
2 prosecuting attorney or attorney general or as ordered by the court
3 having jurisdiction over the criminal matter or, as
4 constitutionally required, to the defendant in a criminal case.

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

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