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Senate Bill 647 (Substitute S-2)
Sponsor: Senator Alan Sanborn
Committee: Judiciary

Date Completed: 11-28-06

CONTENT

The bill would create a new act to do all of the following:

- Prohibit the use of a law enforcement officer's "involuntary statement" against him or her in a criminal proceeding.**
- Provide that a law enforcement officer's involuntary statement would be confidential and not open to public inspection.**
- Allow a law enforcement agency to disclose an officer's involuntary statement under limited circumstances.**

"Involuntary statement" would mean information provided by a law enforcement officer, if compelled under threat of dismissal from employment or any other employment sanction, by the law enforcement agency that employed the officer.

An involuntary statement made by a law enforcement officer, and any information derived from that statement, could not be used against the officer in a criminal proceeding.

An involuntary statement made by a law enforcement officer would be confidential communication that was not open to public inspection. The statement could be disclosed by the law enforcement agency, however, only under one or more of the following circumstances:

- With the officer's written consent.
- To a prosecuting attorney or the Attorney General pursuant to a search warrant, subpoena, or court order, including an investigative subpoena (issued by a prosecuting attorney with a judge's authorization).
- To officers of, or legal counsel for, the law enforcement agency or the officer's collective bargaining representative, or both, for use in an administrative or legal proceeding involving a law enforcement officer's employment status with the agency or to defend the agency or officer in a criminal action.

A prosecuting attorney or Attorney General who obtained an involuntary statement pursuant to a search warrant, subpoena, or court order could not disclose the contents of the statement except to a law enforcement agency working with the prosecuting attorney or Attorney General or as ordered by the court having jurisdiction over the criminal matter or, as constitutionally required, to the defendant in a criminal case.

An officer of, or legal counsel for, a law enforcement agency or the collective bargaining representative of the officer who received an involuntary statement or record of it for use in

an administrative or legal proceeding involving the officer's employment status, or to defend the agency or officer in a criminal action, could not disclose the statement for any other reason, or make it available for public inspection, without the written consent of the officer who made the statement.

"Law enforcement agency" would mean the Department of State Police, the Department of Natural Resources, or a law enforcement agency of a county, township, city, village, airport authority, community college, or university, that was responsible for the prevention and detection of crime and enforcement of Michigan's criminal laws.

"Law enforcement officer" would mean any of the following:

- A person who was trained and certified under the Commission on Law Enforcement Standards Act.
- A local corrections officer.
- An emergency dispatch worker employed by a law enforcement agency.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.