

**SUBSTITUTE FOR
SENATE BILL NO. 647**

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 information provided by a
3 law enforcement officer, if compelled under threat of dismissal
4 from employment or any other employment sanction, by the law
5 enforcement agency that employs the law enforcement officer.

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

1 (c) "Law enforcement officer" means all of the following:

2 (i) A person who is trained and certified under the commission
3 on law enforcement standards act, 1965 PA 203, MCL 28.601 to
4 28.616.

5 (ii) A local corrections officer as defined in section 2 of the
6 local corrections officers training act, 2003 PA 125, MCL 791.532.

7 (iii) An emergency dispatch worker employed by a law enforcement
8 agency.

9 Sec. 3. An involuntary statement made by a law enforcement
10 officer, and any information derived from that involuntary
11 statement, shall not be used against the law enforcement officer in
12 a criminal proceeding.

13 Sec. 5. An involuntary statement made by a law enforcement
14 officer is a confidential communication that is not open to public
15 inspection. The statement may be disclosed by the law enforcement
16 agency only under 1 or more of the following circumstances:

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

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

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1 constitutionally required, to the defendant in a criminal case.

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

13 (d) To legal counsel for an individual or employing agency for
14 use in a civil action against the employing agency or the law
15 enforcement officer. Until the close of discovery in that action,
16 the court shall preserve <<by reasonable means>> the confidentiality of
17 the involuntary statement <<by reasonable means>>, which may include granting
18 protective orders in connection with discovery proceedings, holding
19 in camera hearings, or ordering any person involved in the
20 litigation not to disclose the involuntary statement without prior
21 court approval.