

Legislative Analysis



INVOLUNTARY STATEMENTS BY LAW ENFORCEMENT OFFICERS

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House Bill 5394
Sponsor: Rep. Larry Julian
Committee: Judiciary

Complete to 2-23-04

A SUMMARY OF HOUSE BILL 5394 AS INTRODUCED 12-30-03

The bill would create a new act to restrict the use and disclosure of “involuntary statements” by law enforcement officers. The bill would apply to officers of the state police or of county, township, city, and village law enforcement agencies responsible for the prevention and detection of crime and enforcement of the criminal laws of the state. It would also apply to a conservation officer.

An “involuntary statement” would be defined as a statement made by a law enforcement officer in response to a question by the agency by which he or she was employed, if both 1) the officer was explicitly ordered to answer under threat of dismissal or threat of employment sanction; and 2) by making the statement, the officer’s constitutional privilege against self-incrimination would be violated.

Under the bill:

- an involuntary statement made by a law enforcement officer, and any information derived directly or indirectly from it, could not be used against the officer in a criminal proceeding.
- An involuntary statement made by an officer would be a confidential communication not open for public inspection. The statement, or a record of the statement, could be disclosed by the agency only 1) with the written consent of the officer who made the statement; 2) to a prosecuting attorney under a subpoena or court order in a pending criminal proceeding, and in such an instance, the prosecuting attorney could not disclose the contents of the statement except as ordered by the court; or 3) to officers of, or legal counsel for, the agency or a collective bargaining representative of the law enforcement officer for use in an administrative or legal proceeding regarding the officer’s employment status or to defend the agency in a civil action. In this last case, the involuntary statement could not be disclosed for any reason not allowed in the new act and could not be made available for public inspection without the written consent of the officer who made the statement.

- An involuntary statement would not be subject to discovery in a civil action except as allowed in the new act.

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