



Sen. Michael Noland

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1 AMENDMENT TO HOUSE BILL 1263

2 AMENDMENT NO. _____. Amend House Bill 1263, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The State Police Act is amended by changing
6 Section 14 as follows:

7 (20 ILCS 2610/14) (from Ch. 121, par. 307.14)

8 Sec. 14. Except as is otherwise provided in this Act, no
9 Department of State Police officer shall be removed, demoted or
10 suspended except for cause, upon written charges filed with the
11 Board by the Director and a hearing before the Board thereon
12 upon not less than 10 days' notice at a place to be designated
13 by the chairman thereof. At such hearing, the accused shall be
14 afforded full opportunity to be heard in his or her own defense
15 and to produce proof in his or her defense. Anyone filing a
16 complaint against a State Police Officer must have the

1 complaint supported by a sworn affidavit. Any such complaint,
2 having been supported by a sworn affidavit, and having been
3 found, in total or in part, to contain false information, shall
4 be presented to the appropriate State's Attorney for a
5 determination of prosecution. If a recorded conversation
6 authorized under subsection (g) of Section 14-3 of the Criminal
7 Code of 1961 is used by the complainant as part of the evidence
8 of misconduct against the officer and is found to have been
9 intentionally altered by or at the direction of the complainant
10 to inaccurately reflect the incident at issue, it must be
11 presented to the appropriate State's Attorney for a
12 determination of prosecution.

13 Before any such officer may be interrogated or examined by
14 or before the Board, or by a departmental agent or investigator
15 specifically assigned to conduct an internal investigation,
16 the results of which hearing, interrogation or examination may
17 be the basis for filing charges seeking his or her suspension
18 for more than 15 days or his or her removal or discharge, he or
19 she shall be advised in writing as to what specific improper or
20 illegal act he or she is alleged to have committed; he or she
21 shall be advised in writing that his or her admissions made in
22 the course of the hearing, interrogation or examination may be
23 used as the basis for charges seeking his or her suspension,
24 removal or discharge; and he or she shall be advised in writing
25 that he or she has a right to counsel of his or her choosing,
26 who may be present to advise him or her at any hearing,

1 interrogation or examination. A complete record of any hearing,
2 interrogation or examination shall be made, and a complete
3 transcript or electronic recording thereof shall be made
4 available to such officer without charge and without delay.

5 The Board shall have the power to secure by its subpoena
6 both the attendance and testimony of witnesses and the
7 production of books and papers in support of the charges and
8 for the defense. Each member of the Board or a designated
9 hearing officer shall have the power to administer oaths or
10 affirmations. If the charges against an accused are established
11 by a preponderance of evidence, the Board shall make a finding
12 of guilty and order either removal, demotion, suspension for a
13 period of not more than 180 days, or such other disciplinary
14 punishment as may be prescribed by the rules and regulations of
15 the Board which, in the opinion of the members thereof, the
16 offense merits. Thereupon the Director shall direct such
17 removal or other punishment as ordered by the Board and if the
18 accused refuses to abide by any such disciplinary order, the
19 Director shall remove him or her forthwith.

20 If the accused is found not guilty or has served a period
21 of suspension greater than prescribed by the Board, the Board
22 shall order that the officer receive compensation for the
23 period involved. The award of compensation shall include
24 interest at the rate of 7% per annum.

25 The Board may include in its order appropriate sanctions
26 based upon the Board's rules and regulations. If the Board

1 finds that a party has made allegations or denials without
2 reasonable cause or has engaged in frivolous litigation for the
3 purpose of delay or needless increase in the cost of
4 litigation, it may order that party to pay the other party's
5 reasonable expenses, including costs and reasonable attorney's
6 fees. The State of Illinois and the Department shall be subject
7 to these sanctions in the same manner as other parties.

8 In case of the neglect or refusal of any person to obey a
9 subpoena issued by the Board, any circuit court, upon
10 application of any member of the Board, may order such person
11 to appear before the Board and give testimony or produce
12 evidence, and any failure to obey such order is punishable by
13 the court as a contempt thereof.

14 The provisions of the Administrative Review Law, and all
15 amendments and modifications thereof, and the rules adopted
16 pursuant thereto, shall apply to and govern all proceedings for
17 the judicial review of any order of the Board rendered pursuant
18 to the provisions of this Section.

19 Notwithstanding the provisions of this Section, a policy
20 making officer, as defined in the Employee Rights Violation
21 Act, of the Department of State Police shall be discharged from
22 the Department of State Police as provided in the Employee
23 Rights Violation Act, enacted by the 85th General Assembly.

24 (Source: P.A. 96-891, eff. 5-10-10.)

25 Section 10. The Uniform Peace Officers' Disciplinary Act is

1 amended by changing Section 3.8 as follows:

2 (50 ILCS 725/3.8) (from Ch. 85, par. 2561)

3 Sec. 3.8. Admissions; counsel; verified complaint.

4 (a) No officer shall be interrogated without first being
5 advised in writing that admissions made in the course of the
6 interrogation may be used as evidence of misconduct or as the
7 basis for charges seeking suspension, removal, or discharge;
8 and without first being advised in writing that he or she has
9 the right to counsel of his or her choosing who may be present
10 to advise him or her at any stage of any interrogation.

11 (b) Anyone filing a complaint against a sworn peace officer
12 must have the complaint supported by a sworn affidavit. Any
13 complaint, having been supported by a sworn affidavit, and
14 having been found, in total or in part, to contain knowingly
15 false material information, shall be presented to the
16 appropriate State's Attorney for a determination of
17 prosecution. If a recorded conversation authorized under
18 subsection (q) of Section 14-3 of the Criminal Code of 1961 is
19 used by the complainant as part of the evidence of misconduct
20 against the officer and is found to have been intentionally
21 altered by or at the direction of the complainant to
22 inaccurately reflect the incident at issue, it must be
23 presented to the appropriate State's Attorney for a
24 determination of prosecution.

25 (Source: P.A. 97-472, eff. 8-22-11.)

1 Section 15. The Criminal Code of 1961 is amended by
2 changing Section 14-3 as follows:

3 (720 ILCS 5/14-3)

4 Sec. 14-3. Exemptions. The following activities shall be
5 exempt from the provisions of this Article:

6 (a) Listening to radio, wireless and television
7 communications of any sort where the same are publicly made;

8 (b) Hearing conversation when heard by employees of any
9 common carrier by wire incidental to the normal course of their
10 employment in the operation, maintenance or repair of the
11 equipment of such common carrier by wire so long as no
12 information obtained thereby is used or divulged by the hearer;

13 (c) Any broadcast by radio, television or otherwise whether
14 it be a broadcast or recorded for the purpose of later
15 broadcasts of any function where the public is in attendance
16 and the conversations are overheard incidental to the main
17 purpose for which such broadcasts are then being made;

18 (d) Recording or listening with the aid of any device to
19 any emergency communication made in the normal course of
20 operations by any federal, state or local law enforcement
21 agency or institutions dealing in emergency services,
22 including, but not limited to, hospitals, clinics, ambulance
23 services, fire fighting agencies, any public utility,
24 emergency repair facility, civilian defense establishment or

1 military installation;

2 (e) Recording the proceedings of any meeting required to be
3 open by the Open Meetings Act, as amended;

4 (f) Recording or listening with the aid of any device to
5 incoming telephone calls of phone lines publicly listed or
6 advertised as consumer "hotlines" by manufacturers or
7 retailers of food and drug products. Such recordings must be
8 destroyed, erased or turned over to local law enforcement
9 authorities within 24 hours from the time of such recording and
10 shall not be otherwise disseminated. Failure on the part of the
11 individual or business operating any such recording or
12 listening device to comply with the requirements of this
13 subsection shall eliminate any civil or criminal immunity
14 conferred upon that individual or business by the operation of
15 this Section;

16 (g) With prior notification to the State's Attorney of the
17 county in which it is to occur, recording or listening with the
18 aid of any device to any conversation where a law enforcement
19 officer, or any person acting at the direction of law
20 enforcement, is a party to the conversation and has consented
21 to it being intercepted or recorded under circumstances where
22 the use of the device is necessary for the protection of the
23 law enforcement officer or any person acting at the direction
24 of law enforcement, in the course of an investigation of a
25 forcible felony, a felony offense of involuntary servitude,
26 involuntary sexual servitude of a minor, or trafficking in

1 persons for forced labor or services under Section 10-9 of this
2 Code, an offense involving prostitution, solicitation of a
3 sexual act, or pandering, a felony violation of the Illinois
4 Controlled Substances Act, a felony violation of the Cannabis
5 Control Act, a felony violation of the Methamphetamine Control
6 and Community Protection Act, any "streetgang related" or
7 "gang-related" felony as those terms are defined in the
8 Illinois Streetgang Terrorism Omnibus Prevention Act, or any
9 felony offense involving any weapon listed in paragraphs (1)
10 through (11) of subsection (a) of Section 24-1 of this Code.
11 Any recording or evidence derived as the result of this
12 exemption shall be inadmissible in any proceeding, criminal,
13 civil or administrative, except (i) where a party to the
14 conversation suffers great bodily injury or is killed during
15 such conversation, or (ii) when used as direct impeachment of a
16 witness concerning matters contained in the interception or
17 recording. The Director of the Department of State Police shall
18 issue regulations as are necessary concerning the use of
19 devices, retention of tape recordings, and reports regarding
20 their use;

21 (g-5) With approval of the State's Attorney of the county
22 in which it is to occur, recording or listening with the aid of
23 any device to any conversation where a law enforcement officer,
24 or any person acting at the direction of law enforcement, is a
25 party to the conversation and has consented to it being
26 intercepted or recorded in the course of an investigation of

1 any offense defined in Article 29D of this Code. In all such
2 cases, an application for an order approving the previous or
3 continuing use of an eavesdropping device must be made within
4 48 hours of the commencement of such use. In the absence of
5 such an order, or upon its denial, any continuing use shall
6 immediately terminate. The Director of State Police shall issue
7 rules as are necessary concerning the use of devices, retention
8 of tape recordings, and reports regarding their use.

9 Any recording or evidence obtained or derived in the course
10 of an investigation of any offense defined in Article 29D of
11 this Code shall, upon motion of the State's Attorney or
12 Attorney General prosecuting any violation of Article 29D, be
13 reviewed in camera with notice to all parties present by the
14 court presiding over the criminal case, and, if ruled by the
15 court to be relevant and otherwise admissible, it shall be
16 admissible at the trial of the criminal case.

17 This subsection (g-5) is inoperative on and after January
18 1, 2005. No conversations recorded or monitored pursuant to
19 this subsection (g-5) shall be inadmissible in a court of law
20 by virtue of the repeal of this subsection (g-5) on January 1,
21 2005;

22 (g-6) With approval of the State's Attorney of the county
23 in which it is to occur, recording or listening with the aid of
24 any device to any conversation where a law enforcement officer,
25 or any person acting at the direction of law enforcement, is a
26 party to the conversation and has consented to it being

1 intercepted or recorded in the course of an investigation of
2 involuntary servitude, involuntary sexual servitude of a
3 minor, trafficking in persons for forced labor or services,
4 child pornography, aggravated child pornography, indecent
5 solicitation of a child, child abduction, luring of a minor,
6 sexual exploitation of a child, predatory criminal sexual
7 assault of a child, aggravated criminal sexual abuse in which
8 the victim of the offense was at the time of the commission of
9 the offense under 18 years of age, criminal sexual abuse by
10 force or threat of force in which the victim of the offense was
11 at the time of the commission of the offense under 18 years of
12 age, or aggravated criminal sexual assault in which the victim
13 of the offense was at the time of the commission of the offense
14 under 18 years of age. In all such cases, an application for an
15 order approving the previous or continuing use of an
16 eavesdropping device must be made within 48 hours of the
17 commencement of such use. In the absence of such an order, or
18 upon its denial, any continuing use shall immediately
19 terminate. The Director of State Police shall issue rules as
20 are necessary concerning the use of devices, retention of
21 recordings, and reports regarding their use. Any recording or
22 evidence obtained or derived in the course of an investigation
23 of involuntary servitude, involuntary sexual servitude of a
24 minor, trafficking in persons for forced labor or services,
25 child pornography, aggravated child pornography, indecent
26 solicitation of a child, child abduction, luring of a minor,

1 sexual exploitation of a child, predatory criminal sexual
2 assault of a child, aggravated criminal sexual abuse in which
3 the victim of the offense was at the time of the commission of
4 the offense under 18 years of age, criminal sexual abuse by
5 force or threat of force in which the victim of the offense was
6 at the time of the commission of the offense under 18 years of
7 age, or aggravated criminal sexual assault in which the victim
8 of the offense was at the time of the commission of the offense
9 under 18 years of age shall, upon motion of the State's
10 Attorney or Attorney General prosecuting any case involving
11 involuntary servitude, involuntary sexual servitude of a
12 minor, trafficking in persons for forced labor or services,
13 child pornography, aggravated child pornography, indecent
14 solicitation of a child, child abduction, luring of a minor,
15 sexual exploitation of a child, predatory criminal sexual
16 assault of a child, aggravated criminal sexual abuse in which
17 the victim of the offense was at the time of the commission of
18 the offense under 18 years of age, criminal sexual abuse by
19 force or threat of force in which the victim of the offense was
20 at the time of the commission of the offense under 18 years of
21 age, or aggravated criminal sexual assault in which the victim
22 of the offense was at the time of the commission of the offense
23 under 18 years of age, be reviewed in camera with notice to all
24 parties present by the court presiding over the criminal case,
25 and, if ruled by the court to be relevant and otherwise
26 admissible, it shall be admissible at the trial of the criminal

1 case. Absent such a ruling, any such recording or evidence
2 shall not be admissible at the trial of the criminal case;

3 (h) Recordings made simultaneously with the use of an
4 in-car video camera recording of an oral conversation between a
5 uniformed peace officer, who has identified his or her office,
6 and a person in the presence of the peace officer whenever (i)
7 an officer assigned a patrol vehicle is conducting an
8 enforcement stop; or (ii) patrol vehicle emergency lights are
9 activated or would otherwise be activated if not for the need
10 to conceal the presence of law enforcement.

11 For the purposes of this subsection (h), "enforcement stop"
12 means an action by a law enforcement officer in relation to
13 enforcement and investigation duties, including but not
14 limited to, traffic stops, pedestrian stops, abandoned vehicle
15 contacts, motorist assists, commercial motor vehicle stops,
16 roadside safety checks, requests for identification, or
17 responses to requests for emergency assistance;

18 (h-5) Recordings of utterances made by a person while in
19 the presence of a uniformed peace officer and while an occupant
20 of a police vehicle including, but not limited to, (i)
21 recordings made simultaneously with the use of an in-car video
22 camera and (ii) recordings made in the presence of the peace
23 officer utilizing video or audio systems, or both, authorized
24 by the law enforcement agency;

25 (h-10) Recordings made simultaneously with a video camera
26 recording during the use of a taser or similar weapon or device

1 by a peace officer if the weapon or device is equipped with
2 such camera;

3 (h-15) Recordings made under subsection (h), (h-5), or
4 (h-10) shall be retained by the law enforcement agency that
5 employs the peace officer who made the recordings for a storage
6 period of 90 days, unless the recordings are made as a part of
7 an arrest or the recordings are deemed evidence in any
8 criminal, civil, or administrative proceeding and then the
9 recordings must only be destroyed upon a final disposition and
10 an order from the court. Under no circumstances shall any
11 recording be altered or erased prior to the expiration of the
12 designated storage period. Upon completion of the storage
13 period, the recording medium may be erased and reissued for
14 operational use;

15 (i) Recording of a conversation made by or at the request
16 of a person, not a law enforcement officer or agent of a law
17 enforcement officer, who is a party to the conversation, under
18 reasonable suspicion that another party to the conversation is
19 committing, is about to commit, or has committed a criminal
20 offense against the person or a member of his or her immediate
21 household, and there is reason to believe that evidence of the
22 criminal offense may be obtained by the recording;

23 (j) The use of a telephone monitoring device by either (1)
24 a corporation or other business entity engaged in marketing or
25 opinion research or (2) a corporation or other business entity
26 engaged in telephone solicitation, as defined in this

1 subsection, to record or listen to oral telephone solicitation
2 conversations or marketing or opinion research conversations
3 by an employee of the corporation or other business entity
4 when:

5 (i) the monitoring is used for the purpose of service
6 quality control of marketing or opinion research or
7 telephone solicitation, the education or training of
8 employees or contractors engaged in marketing or opinion
9 research or telephone solicitation, or internal research
10 related to marketing or opinion research or telephone
11 solicitation; and

12 (ii) the monitoring is used with the consent of at
13 least one person who is an active party to the marketing or
14 opinion research conversation or telephone solicitation
15 conversation being monitored.

16 No communication or conversation or any part, portion, or
17 aspect of the communication or conversation made, acquired, or
18 obtained, directly or indirectly, under this exemption (j), may
19 be, directly or indirectly, furnished to any law enforcement
20 officer, agency, or official for any purpose or used in any
21 inquiry or investigation, or used, directly or indirectly, in
22 any administrative, judicial, or other proceeding, or divulged
23 to any third party.

24 When recording or listening authorized by this subsection
25 (j) on telephone lines used for marketing or opinion research
26 or telephone solicitation purposes results in recording or

1 listening to a conversation that does not relate to marketing
2 or opinion research or telephone solicitation; the person
3 recording or listening shall, immediately upon determining
4 that the conversation does not relate to marketing or opinion
5 research or telephone solicitation, terminate the recording or
6 listening and destroy any such recording as soon as is
7 practicable.

8 Business entities that use a telephone monitoring or
9 telephone recording system pursuant to this exemption (j) shall
10 provide current and prospective employees with notice that the
11 monitoring or recordings may occur during the course of their
12 employment. The notice shall include prominent signage
13 notification within the workplace.

14 Business entities that use a telephone monitoring or
15 telephone recording system pursuant to this exemption (j) shall
16 provide their employees or agents with access to personal-only
17 telephone lines which may be pay telephones, that are not
18 subject to telephone monitoring or telephone recording.

19 For the purposes of this subsection (j), "telephone
20 solicitation" means a communication through the use of a
21 telephone by live operators:

- 22 (i) soliciting the sale of goods or services;
23 (ii) receiving orders for the sale of goods or
24 services;
25 (iii) assisting in the use of goods or services; or
26 (iv) engaging in the solicitation, administration, or

1 collection of bank or retail credit accounts.

2 For the purposes of this subsection (j), "marketing or
3 opinion research" means a marketing or opinion research
4 interview conducted by a live telephone interviewer engaged by
5 a corporation or other business entity whose principal business
6 is the design, conduct, and analysis of polls and surveys
7 measuring the opinions, attitudes, and responses of
8 respondents toward products and services, or social or
9 political issues, or both;

10 (k) Electronic recordings, including but not limited to, a
11 motion picture, videotape, digital, or other visual or audio
12 recording, made of a custodial interrogation of an individual
13 at a police station or other place of detention by a law
14 enforcement officer under Section 5-401.5 of the Juvenile Court
15 Act of 1987 or Section 103-2.1 of the Code of Criminal
16 Procedure of 1963;

17 (l) Recording the interview or statement of any person when
18 the person knows that the interview is being conducted by a law
19 enforcement officer or prosecutor and the interview takes place
20 at a police station that is currently participating in the
21 Custodial Interview Pilot Program established under the
22 Illinois Criminal Justice Information Act;

23 (m) An electronic recording, including but not limited to,
24 a motion picture, videotape, digital, or other visual or audio
25 recording, made of the interior of a school bus while the
26 school bus is being used in the transportation of students to

1 and from school and school-sponsored activities, when the
2 school board has adopted a policy authorizing such recording,
3 notice of such recording policy is included in student
4 handbooks and other documents including the policies of the
5 school, notice of the policy regarding recording is provided to
6 parents of students, and notice of such recording is clearly
7 posted on the door of and inside the school bus.

8 Recordings made pursuant to this subsection (m) shall be
9 confidential records and may only be used by school officials
10 (or their designees) and law enforcement personnel for
11 investigations, school disciplinary actions and hearings,
12 proceedings under the Juvenile Court Act of 1987, and criminal
13 prosecutions, related to incidents occurring in or around the
14 school bus;

15 (n) Recording or listening to an audio transmission from a
16 microphone placed by a person under the authority of a law
17 enforcement agency inside a bait car surveillance vehicle while
18 simultaneously capturing a photographic or video image;

19 (o) The use of an eavesdropping camera or audio device
20 during an ongoing hostage or barricade situation by a law
21 enforcement officer or individual acting on behalf of a law
22 enforcement officer when the use of such device is necessary to
23 protect the safety of the general public, hostages, or law
24 enforcement officers or anyone acting on their behalf; ~~and~~

25 (p) Recording or listening with the aid of any device to
26 incoming telephone calls of phone lines publicly listed or

1 advertised as the "CPS Violence Prevention Hotline", but only
2 where the notice of recording is given at the beginning of each
3 call as required by Section 34-21.8 of the School Code. The
4 recordings may be retained only by the Chicago Police
5 Department or other law enforcement authorities, and shall not
6 be otherwise retained or disseminated; and -

7 (g) A person may record the conversation of a law
8 enforcement officer who is performing a public duty in a public
9 place and any other person who is having a conversation with
10 that law enforcement officer if:

11 (1) the conversation is at a volume audible to the
12 unassisted ear of the person who is making the recording;

13 (2) there is no reasonable expectation of privacy; and

14 (3) if the person recording is a law enforcement
15 officer, the person must notify the parties that the
16 conversation is being recorded.

17 For purposes of this subsection (g), "public place"
18 means any place to which the public has access and includes,
19 but is not limited to, streets, sidewalks, parks, and highways
20 (including inside motor vehicles), and the common areas of
21 public and private facilities and buildings.

22 (Source: P.A. 96-425, eff. 8-13-09; 96-547, eff. 1-1-10;
23 96-643, eff. 1-1-10; 96-670, eff. 8-25-09; 96-1000, eff.
24 7-2-10; 96-1425, eff. 1-1-11; 96-1464, eff. 8-20-10; 97-333,
25 eff. 8-12-11.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".