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LB 209

ten days...if you want to look up some of that...I started to say "stuff"...some of that process, you can go to pages 4 and 5 of the bill, and look at some of the material. In fact, some of it would be in subsection (3). When there are consequences that can flow from an officer taking certain actions against a citizen, we should protect that citizen from inappropriate police action. The officer is the representative of the state, wielding the power of the state against a citizen. Officers should not use this power whimsically, arbitrarily, or capriciously. Because of that, the U.S. Constitution lays out the conditions for a valid arrest being made, a lawful search being undertaken. But courts have provided a little wiggle room, so that there can be a lawful contact by an officer with a citizen, even when there is not probable cause to make an arrest. And that wiggle room contact is known as an investigative stop. Here we're talking about an arrest. We're not talking about an investigative stop. We're not talking about a reasonable suspicion. We are talking about an actual arrest, which means a person is placed in custody. You are placed in custody when an officer lets you know that you are not free to leave. When you are not free to leave, and it is in the context of an arrest, whether the officer says the words "you're under arrest" is irrelevant. The objective facts of that circumstance will determine whether an arrest has taken place. In this situation that my amendment deals with, the officer is acknowledging that there was an arrest. That's what everything is based on, an arrest. No investigative stop, none of the other things that fall short of an arrest. When the officer makes this sworn statement on the basis of which other action will be flowing...be forthcoming, there is nothing wrong with having the officer under oath declare that the arrest was validly made. Any time a complaint is signed under oath, the mere signing of the complaint does not prove guilt. It does not establish the legal validity of the complaint, even if the complaint is signed by a prosecutor, which could be a city attorney, a county attorney, the Attorney General, or a designee of either of those three who is authorized under the law to sign a complaint. So what we're talking about here is not a determination of the ultimate legal issue, but rather what was in the officer's mind at the time this arrest took place. We will not harm anything by leaving this word "validly" in the