

AMENDMENTS TO LB816

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** (1) The Legislature finds that it is common for public
4 safety personnel to experience stress and emotional difficulties as a
5 result of traumatic events and common job stressors experienced on a
6 regular basis. Peer support can be beneficial to public safety personnel
7 and can reduce the likelihood that such individuals will experience long-
8 term effects that may have a negative impact on their well-being.

9 (2) The Legislature further finds that confidentiality is a
10 necessary foundation of effective peer support. The privileged and
11 confidential nature of a peer support session ensures confidentiality and
12 encourages an individual to speak openly to a peer without fear that a
13 communication could be used against the individual in a disciplinary or
14 other hearing.

15 **Sec. 2.** For purposes of sections 1 to 4 of this act:

16 (1) Communication means any verbal, written, or electronic
17 communication;

18 (2) Critical incident means an actual or perceived event or
19 situation that involves a crisis, disaster, trauma, or emergency;

20 (3) Emergency care provider has the same meaning as in section
21 38-1206.04;

22 (4) Fire fighter means:

23 (a) An officer, employee, or member of a fire department or fire-
24 protection or firefighting agency of the state, a municipality, a rural
25 or suburban fire protection district, or any other political subdivision,
26 regardless of whether such person is a volunteer or paid;

27 (b) An officer, employee, or member of a fire service providing fire

1 protection to federal or state military installations; or
2 (c) The State Fire Marshal or a deputy state fire marshal;
3 (5) Hospital personnel means employees or contractors of a hospital
4 who provide direct patient care or emergency services, and includes
5 physicians, nurses, emergency department staff, and trauma center
6 personnel;
7 (6) Law enforcement agency means:
8 (a) A law enforcement agency as defined in section 81-1401; or
9 (b) A tribal police department;
10 (7) Law enforcement officer means:
11 (a) A law enforcement officer as defined in section 81-1401; or
12 (b) A member of a tribal police department or federal law
13 enforcement officer duly authorized to assert law enforcement powers by a
14 tribe in the State of Nebraska;
15 (8) Law enforcement support personnel means an employee of a
16 governmental entity who, by virtue of the person's job duties, provides
17 support to law enforcement officers, and includes dispatchers, public
18 safety telecommunicators, crime scene and crime laboratory technicians,
19 criminal analysts, professional staff, and intelligence analysts;
20 (9)(a) Peer support services means any services provided by a peer
21 support team member that offer emotional or moral support to any public
22 safety personnel regarding a critical incident; professional, personal,
23 or social problem; or difficult life event.
24 (b) Peer support services includes services described in subdivision
25 (9)(a) of this section regardless of:
26 (i) How the peer support team member is contacted;
27 (ii) Whether the services are conducted in a group or private
28 setting;
29 (iii) Where the services are requested or conducted; or
30 (iv) Whether the services are conducted in person or using
31 electronic communication;

1 (10) Peer support team means a group of peer support team members
2 serving one or more public safety agencies;

3 (11)(a) Peer support team member means an individual who:

4 (i) Has successfully completed at least twenty-four hours of peer
5 support training; and

6 (ii) Is officially designated by a public safety agency's head or
7 such head's designee to be a member of such agency's peer support team.

8 (b) A peer support team member need not be an employee of a public
9 safety agency or affiliated with a public safety agency and may include a
10 person acting in a volunteer or professional capacity;

11 (12) Peer support trainer means a subject matter expert in teaching
12 peer support for public safety personnel as evidenced by experience or
13 cultural competence or by holding appropriate certification or mental
14 health credentials;

15 (13) Peer support training means training which focuses on the needs
16 of public safety personnel and that is taught by a peer support trainer
17 who has been approved by the trainee's public safety agency;

18 (14) Personal representative has the same meaning as in section
19 30-3502;

20 (15) Proceeding means any civil, criminal, administrative,
21 arbitration, or disciplinary proceeding;

22 (16) Public safety agency means:

23 (a) A law enforcement agency;

24 (b) A fire protection or emergency medical services agency;

25 (c) A hospital; or

26 (d) Any other agency or entity, including a nonprofit organization,
27 that employs, represents, or serves public safety personnel; and

28 (17) Public safety personnel means a law enforcement officer, a
29 correctional officer, a jail officer, a juvenile detention officer, a
30 firefighter, an emergency care provider, law enforcement support
31 personnel, hospital personnel, or ambulance service provider personnel.

1 Sec. 3. A public safety agency may establish a peer support team.
2 If a public safety agency does so, the agency shall develop written
3 guidelines for the peer support team and its members.

4 Sec. 4. (1) Except as otherwise provided in this section, the
5 following are privileged and confidential:

6 (a) Any communication occurring during a peer support services
7 meeting between a peer support team member and a recipient of peer
8 support services;

9 (b) Any communication relating to peer support services that is made
10 between peer support team members or between peer support team members
11 and the supervisors or clinical supervisors of a peer support team; and

12 (c) Any records detailing or arising out of interactions described
13 in subdivision (1)(a) or (b) of this section.

14 (2) Except as otherwise provided in this section, communications and
15 records that are privileged and confidential under subsection (1) of this
16 section:

17 (a) Are not public records;
18 (b) Are not subject to discovery; and
19 (c) Shall not be admissible in evidence in any proceeding.

20 (3) A peer support team member may disclose communications or
21 records described in subsection (1) of this section:

22 (a) With the written consent of the recipient of the peer support
23 services at issue;

24 (b) If the recipient of the peer support services at issue is
25 deceased, with the written consent of the recipient's surviving spouse or
26 personal representative;

27 (c) If there are articulable facts or circumstances that would lead
28 a reasonable, prudent person to fear for the safety of the peer support
29 services recipient, another individual, or society, and the peer support
30 team member communicates the information only to the potential victims,
31 appropriate family members, law enforcement, and other appropriate

1 authorities; or

2 (d) When the peer support team member is a defendant or respondent
3 in a proceeding arising from a complaint, accusation, or allegation filed
4 by the recipient of peer support services, in which case such
5 communications or records may be divulged but only to the extent
6 necessitated by such proceeding.

7 (4) The privilege and confidentiality provided for in this section
8 shall not apply to communications or records that a peer support member
9 is required to disclose because such communication or record:

10 (a) Indicates child abuse or neglect that must be reported under
11 section 28-711;

12 (b) Indicates abuse, neglect, or exploitation of a vulnerable adult
13 that must be reported under section 28-372; or

14 (c) Causes the peer support team member to believe that the
15 recipient of peer support services has committed a criminal act.

16 (5) A peer support team member shall not be liable in any proceeding
17 for making a disclosure under subdivision (3)(c) or subsection (4) of
18 this section.

19 (6) A recipient of peer support services shall not be examined in
20 any proceeding regarding communications or records described in
21 subsection (1) of this section without his or her consent.

22 (7) This section does not prohibit any communications between peer
23 support team members or any communications between peer support team
24 members and the supervisors or staff of a peer support program.

25 (8) This section does not limit the disclosure, discovery, or
26 admissibility of information, testimony, or evidence that is:

27 (a) Obtained by a peer support team member from a source other than
28 a peer support services communication; or

29 (b) Acquired by any law enforcement personnel or emergency services
30 personnel during the course of employment and that is otherwise subject
31 to discovery or introduction into evidence.