

ENGROSSED LEGISLATIVE BILL 816

Introduced by Storer, 43; Hallstrom, 1; Lonowski, 33; Sanders, 45; Wordekemper, 15.

A BILL FOR AN ACT relating to public safety; to amend sections 71-919 and 71-1203, Revised Statutes Supplement, 2025; to provide a privilege for peer support services communications; to define terms; to provide for immunity; to change provisions relating to persons taken into emergency protective custody; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

(4) Fire fighter means:

(a) An officer, employee, or member of a fire department or fire-protection or firefighting agency of the state, a municipality, a rural or suburban fire protection district, or any other political subdivision,

regardless of whether such person is a volunteer or paid;

(b) An officer, employee, or member of a fire service providing fire protection to federal or state military installations; or

(c) The State Fire Marshal or a deputy state fire marshal;

(5) Hospital personnel means employees or contractors of a hospital who provide direct patient care or emergency services, and includes physicians, nurses, emergency department staff, and trauma center personnel;

(6) Law enforcement agency means:

(a) A law enforcement agency as defined in section 81-1401; or

(b) A tribal police department;

(7) Law enforcement officer means:

(a) A law enforcement officer as defined in section 81-1401; or

(b) A member of a tribal police department or federal law enforcement officer duly authorized to assert law enforcement powers by a tribe in the State of Nebraska;

(8) Law enforcement support personnel means an employee of a governmental entity who, by virtue of the person's job duties, provides support to law enforcement officers, and includes dispatchers, public safety telecommunicators, crime scene and crime laboratory technicians, criminal analysts, professional staff, and intelligence analysts;

(9)(a) Peer support services means any services provided by a peer support team member that offer emotional or moral support to any public safety personnel regarding a critical incident; professional, personal, or social problem; or difficult life event.

(b) Peer support services includes services described in subdivision (9) (a) of this section regardless of:

(i) How the peer support team member is contacted;

(ii) Whether the services are conducted in a group or private setting;

(iii) Where the services are requested or conducted; or

(iv) Whether the services are conducted in person or using electronic communication;

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

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

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

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

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

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

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

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

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

(16) Public safety agency means:

(a) A law enforcement agency;

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

(c) A hospital; or

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

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

Sec. 3. A public safety agency may establish a peer support team. If a

public safety agency does so, the agency shall develop written guidelines for the peer support team and its members.

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

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

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

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

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

(a) Are not public records;

(b) Are not subject to discovery; and

(c) Shall not be admissible in evidence in any proceeding.

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

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

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

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

(d) When the peer support team member is a defendant or respondent in a proceeding arising from a complaint, accusation, or allegation filed by the

recipient of peer support services, in which case such communications or records may be divulged but only to the extent necessitated by such proceeding.

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

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

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

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

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

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

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

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

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

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

Sec. 5. Section 71-919, Revised Statutes Supplement, 2025, is amended to read:

71-919 (1)(a) A law enforcement officer may take a person into emergency protective custody, cause him or her to be taken into emergency protective custody, or continue his or her custody if he or she is already in custody if

the officer has probable cause to believe:

(i) Such person is mentally ill and dangerous or a dangerous sex offender and that the harm described in section 71-908 or subdivision (1) of section 83-174.01 is likely to occur before mental health board proceedings under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act may be initiated to obtain custody of the person; or

(ii) For a person domiciled within Indian country in Nebraska, that such person is mentally ill and dangerous or a dangerous sex offender under tribal law and that harm comparable to that described in section 71-908 or subdivision (1) of section 83-174.01 or the equivalent under tribal law is likely to occur before mental health proceedings under tribal law may be initiated to obtain custody of the person.

(b) Such person shall be admitted to an appropriate and available medical facility, jail, or Department of Correctional Services facility as provided in subsection (2) of this section.

(c)(i) Except as provided in subdivision (1)(c)(ii) of this section, each county shall make arrangements with appropriate facilities inside or outside the county for such purpose and shall pay the cost of the emergency protective custody of persons from such county in such facilities.

(ii) For a subject domiciled within Indian country in Nebraska for whom emergency protective custody is initiated under tribal law, the tribe shall make arrangements with appropriate facilities inside or outside the tribe for such purpose and shall make arrangements for payment of the cost of the emergency protective custody of persons from such tribe in such facilities.

(d) A mental health professional who has probable cause to believe that a person is mentally ill and dangerous or a dangerous sex offender may cause such person to be taken into custody and shall have a limited privilege to hold such person until a law enforcement officer or other authorized person arrives to take custody of such person.

(2)(a) For purposes of this subsection, convicted sex offender means a person with a prior conviction for an offense listed in section 29-4003.

(b) A person taken into emergency protective custody under this section who is not a convicted sex offender shall be admitted to an appropriate and available medical facility, except that such person may instead be admitted to a jail or other facility with an available mental health bed under the Regional Mental Health Expansion Pilot Program Act until an appropriate medical facility is available.

(c) A person taken into emergency protective custody under this section who is a convicted sex offender shall be admitted to a jail or Department of Correctional Services facility unless a medical or psychiatric emergency exists for which treatment at a medical facility is required. The person in emergency protective custody shall remain at the medical facility until the medical or psychiatric emergency has passed and it is safe to transport such person, at which time the person shall be transferred to an available jail or Department of Correctional Services facility.

(3)(a) Except as provided in subdivision (3)(b) of this section, upon admission to a facility or jail of a person taken into emergency protective custody by a law enforcement officer under this section, such officer shall execute a written certificate prescribed and provided by the Department of Health and Human Services. The certificate shall allege the officer's belief that the person in custody is mentally ill and dangerous or a dangerous sex offender and shall contain a summary of the person's behavior supporting such allegations. A copy of such certificate shall be immediately forwarded to the county attorney.

(b) In the case of a subject domiciled within Indian country who is taken into emergency protective custody by a law enforcement officer under tribal law, upon admission to a facility or jail, such officer shall execute written documentation in a format provided by the tribe. At a minimum, such documentation shall clearly identify the subject, identify the relevant tribe, allege the officer's belief that the person in custody is mentally ill and dangerous or a dangerous sex offender under tribal law, and contain a summary of the subject's behavior supporting such allegations. A copy of such

documentation shall be immediately forwarded to the appropriate tribal prosecutor or tribal official.

(4)(a) The administrator of the facility or jail shall have such person evaluated by a mental health professional as soon as reasonably possible but not later than thirty-six hours after admission. The mental health professional shall not be the mental health professional who causes such person to be taken into custody under this section and shall not be a member or alternate member of the mental health board that will preside over any hearing under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act with respect to such person. Upon the agreement of all parties, the evaluation may be conducted by videoconferencing if the mental health professional thinks it appropriate under the circumstances.

(b) A person shall be released from emergency protective custody after completion of such evaluation unless the mental health professional determines, in his or her clinical opinion, that such person is mentally ill and dangerous or a dangerous sex offender. In the case of a subject domiciled within Indian country who is taken into emergency protective custody under tribal law, the mental health professional shall notify an appropriate tribal prosecutor or official of such release.

Sec. 6. Section 71-1203, Revised Statutes Supplement, 2025, is amended to read:

71-1203 For purposes of the Sex Offender Commitment Act:

(1) The definitions found in sections 71-904.02, 71-904.03, 71-905, 71-906, 71-907, 71-910, 71-911, 71-914.01, 71-914.02, 71-914.03, and 83-174.01 apply;

(2) Administrator means the administrator or other chief administrative officer of a treatment facility, medical facility, jail, or Department of Correctional Services facility or his or her designee;

(3) Outpatient treatment means treatment ordered by a mental health board directing a subject to comply with specified outpatient treatment requirements, including, but not limited to, (a) taking prescribed medication, (b) reporting

to a mental health professional or treatment facility for treatment or for monitoring of the subject's condition, or (c) participating in individual or group therapy or educational, rehabilitation, residential, or vocational programs;

(4)(a) Subject means any person concerning whom (i) a certificate has been filed under section 71-1204, (ii) a certificate has been filed under section 71-919 and such person is held pursuant to subdivision (2)(c) of section 71-919, or (iii) a petition has been filed under the Sex Offender Commitment Act.

(b) Subject also includes a person who is a member of a tribe or eligible for membership in a tribe, who is domiciled within Indian country in Nebraska, and concerning whom sex offender involuntary commitment or emergency protective custody proceedings have been initiated under tribal law.

(c) Subject does not include any person under eighteen years of age unless such person is an emancipated minor; and

(5) Treatment facility means a facility which provides services for persons who are dangerous sex offenders.

Sec. 7. Sections 1, 2, 3, and 4 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 8. Original sections 71-919 and 71-1203, Revised Statutes Supplement, 2025, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 816 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR