

ENGROSSED

House Bill No. 1460

As Amended

ENGROSSED HOUSE BILL NO. 1460 - By: Kern, McAffrey, Roan, Tibbs,  
Brannon and Smithson of the House and Coffee and Corn of the Senate.

An Act relating to evidence; defining terms; providing for  
privileged communications between specific individuals in  
peer support counseling sessions; providing for  
confidentiality in specific communications; precluding  
admissibility of specific communications; providing  
exceptions; providing for codification; and providing an  
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 2506.2 of Title 12, unless there  
is created a duplication in numbering, reads as follows:

A. For purposes of this section:

1. "Emergency services provider" means any public employer that  
employs persons to provide firefighting services;

2. "Emergency services personnel" means any employee of an  
emergency services provider who is engaged in providing firefighting  
services;

3. "Employee assistance program" means a program established by  
a law enforcement agency or emergency services provider to provide

1 counseling or support services to employees of the law enforcement  
2 agency or emergency services provider;

3 4. "Law enforcement agency" means any county sheriff, municipal  
4 police department, the Oklahoma Highway Patrol, and any state or  
5 local public body that employs public safety personnel;

6 5. "Public safety personnel" means a sheriff, deputy sheriff,  
7 municipal police officer, state police officer, parole and probation  
8 officer, corrections employee, certified reserve officer,  
9 telecommunicator, or emergency medical dispatcher; and

10 6. "Peer support counseling sessions" means critical incident  
11 stress management sessions for public safety or emergency services  
12 personnel who have been involved in emotionally traumatic incidents  
13 by reason of their employment.

14 B. Any communication made by a participant or counselor in a  
15 peer support counseling session conducted by a law enforcement  
16 agency or by an emergency services provider for public safety  
17 personnel or emergency services personnel, and any oral or written  
18 information conveyed in the peer support counseling session, is  
19 confidential and may not be disclosed by any person participating in  
20 the peer support counseling session.

21 C. Any communication relating to a peer support counseling  
22 session made confidential under subsection B of this section that is  
23 made between counselors, between counselors and the supervisors or

1 staff of an employee assistance program, or between the supervisors  
2 or staff of an employee assistance program, is confidential and may  
3 not be disclosed.

4 D. The provisions of this section apply only to peer support  
5 counseling sessions conducted by an employee or other person who:

6 1. Has been designated by a law enforcement agency or emergency  
7 services provider, or by an employee assistance program, to act as a  
8 counselor; and

9 2. Has received training in counseling and in providing  
10 emotional and moral support to public safety personnel or emergency  
11 services personnel who have been involved in emotionally traumatic  
12 incidents by reason of their employment.

13 E. The provisions of this section apply to all oral  
14 communications, notes, records and reports arising out of a peer  
15 support counseling session. Any notes, records or reports arising  
16 out of a peer support counseling session are not public records for  
17 the purposes of Sections 24A.1 through 24A.29 of Title 51 of the  
18 Oklahoma Statutes.

19 F. Any communication made by a participant or counselor in a  
20 peer support counseling session subject to this section, and any  
21 oral or written information conveyed in a peer support counseling  
22 session subject to this section, is not admissible in any judicial  
23 proceeding, administrative proceeding, arbitration proceeding, or

1 other adjudicatory proceeding. Communications and information made  
2 confidential under this section shall not be disclosed by the  
3 participants in any judicial proceeding, administrative proceeding,  
4 arbitration proceeding, or other adjudicatory proceeding. The  
5 limitations on disclosure imposed by this subsection include  
6 disclosure during any discovery conducted as part of an adjudicatory  
7 proceeding.

8 G. Nothing in this section limits the discovery or introduction  
9 in evidence of knowledge acquired by any public safety personnel or  
10 emergency services personnel from observation made during the course  
11 of employment, or material or information acquired during the course  
12 of employment, that is otherwise subject to discovery or  
13 introduction in evidence.

14 H. This section does not apply to:

15 1. Any threat of suicide or homicide made by a participant in a  
16 peer support counseling session, or any information conveyed in a  
17 peer support counseling session relating to a threat of suicide or  
18 homicide;

19 2. Any information relating to abuse of children or of the  
20 elderly, or other information that is required to be reported by  
21 law;

22 3. Any admission of criminal conduct; or

23 4. Any admission of a plan to commit a crime.

1 I. This section shall not prohibit any communications between  
2 counselors who conduct peer support counseling sessions, or any  
3 communications between counselors and the supervisors or staff of an  
4 employee assistance program.

5 SECTION 2. This act shall become effective **November 1, 2008**.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 4-1-08 - DO PASS,  
7 As Amended.