

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 58th Legislature (2021)

4   ENGROSSED SENATE  
5   BILL NO. 361

                              By: David, Weaver and **Floyd** of  
                              the Senate

6   and

7   Wallace of the House

8  
9  
10           An Act relating to the Oklahoma Evidence Code;  
11           amending 12 O.S. 2011, Section 2506.2, which relates  
12           to peer support counseling confidentiality; modifying  
13           definition; and providing an effective date.

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

15           SECTION 1.        AMENDATORY        12 O.S. 2011, Section 2506.2, is  
16   amended to read as follows:

17           Section 2506.2.   A.   For purposes of this section:

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

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

23           3.   "Employee assistance program" means a program established by  
24   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. The sessions may include  
14 participation of the immediate family of the public safety or  
15 emergency services personnel.

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

23 C. Any communication relating to a peer support counseling  
24 session made confidential under subsection B of this section that is

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

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

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

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

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

20 F. Any communication made by a participant or counselor in a  
21 peer support counseling session subject to this section, and any  
22 oral or written information conveyed in a peer support counseling  
23 session subject to this section, is not admissible in any judicial  
24 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.  
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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, 2021.

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7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated  
8 03/30/2021 - DO PASS, As Coauthored.  
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