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February 9, 2021

SENATE BILL NO. 361

By: David and Weaver of the
Senate

and

Wallace of the House

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

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

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

Section 2506.2. 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. 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.
24

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.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
7 February 9, 2021 - DO PASS
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