

2020 Regular Session

SENATE BILL NO. 482

BY SENATOR MIZELL

LAW ENFORCEMENT. Provides for the Peace Officer and Public Safety Personnel Peer Support and Mental Health and Wellness Act. (8/1/20)

1 AN ACT

2 To enact Chapter 18-A of Title 40 of the Louisiana Revised Statutes of 1950, to be

3 comprised of R.S. 40:2411, and R.S. 44:4(59), relative to public health and safety;

4 to provide for the Peace Officer and Public Safety Personnel Peer Support and

5 Mental Health and Wellness Act; to provide definitions; to provide relative to

6 legislative intent; to provide penalties for violation of the Act; to exempt records

7 relating to peace officer and public safety personnel peer support programs and

8 sessions from public access; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 18-A of Title 40 of the Louisiana Revised Statutes of 1950, to be

11 comprised of R.S. 40:2411, is hereby enacted to read as :

12 **CHAPTER 18-A. PEACE OFFICER AND PUBLIC SAFETY PERSONNEL**

13 **PEER SUPPORT AND MENTAL HEALTH WELLNESS**

14 **§2411. Peace Officer and Public Safety Personnel Peer Support and Mental**

15 **Health and Wellness Act**

16 **A. Statement of public purpose:**

17 **(1) Peace officers and public safety personnel are often exposed to**

1 traumatic, hazardous, violent, and life-threatening situations throughout their
2 careers. The very nature of the work they perform can also cause stress in their
3 personal and familial relationships. These factors cumulatively can take a toll
4 on both the mental and physical well-being of our peace officers and public
5 safety personnel, which in turn can affect their job performance. Peace officers
6 and public safety personnel are no less susceptible than any other citizen of
7 Louisiana to mental health issues, including but not limited to depression,
8 alcoholism, and drug addiction.

9 (2) Peer support encompasses a range of activities and interactions
10 between people with common life experiences. This mutuality fosters connection
11 and inspires hope. Peer support has been used for decades by law enforcement
12 agencies following critical incidents. Congress has recognized the importance
13 of peer support programs for law enforcement officers through the Law
14 Enforcement Officers Mental Health and Wellness Act of 2017. Peer support
15 and early intervention are important for successful detection and treatment of
16 mental health issues, reduction of poor job performance and misconduct,
17 increase in retention of trained peace officers, and reduction of the suicide rate
18 in the law enforcement profession.

19 (3) Peace officers and public safety personnel who protect and serve the
20 public are often reluctant to seek help for themselves. It is important that those
21 in a position to offer assistance have a full understanding of the job of the peace
22 officer and those personnel who support their mission. In an effort to manage
23 stress and support the overall wellness and mental health of our peace officers
24 and public safety personnel in Louisiana, and for the benefit and safety of the
25 general public they serve, peace officers and public safety support personnel are
26 hereby encouraged to seek assistance from the support of peers, and to feel
27 confident that their participation in a peer support program shall be privileged
28 and confidential in all respects and shall not be divulged to the public in any
29 way.

1 **(4) It is hereby declared to be the public policy of the state of Louisiana**
2 **to promote and encourage the use of trained peers for support among peace**
3 **officers and public safety personnel. The intent of this Section is to further this**
4 **goal by providing for a privilege, confidentiality of information, and tort**
5 **immunity for governmental entities, their agents, employees and persons who,**
6 **on their behalf, furnish information and participate as volunteers in a peer**
7 **support program for peace officers and public support personnel offered by a**
8 **governmental entity.**

9 **B. Definitions**

10 **For purposes of this Section:**

11 **(1) "Governmental entity" means any board, authority, commission,**
12 **department, office, division, or agency of the state or any of its political**
13 **subdivisions.**

14 **(2) "Peace officer" shall have the same meaning as the term is defined**
15 **in R.S. 40:2402.**

16 **(3) "Peer support member" means a person, whether a peace officer or**
17 **not, specially trained to voluntarily provide confidential, emotional and moral**
18 **support and assistance to peace officers and public safety personnel, and**
19 **approved as a peer support member by the governmental entity who has**
20 **established a peer support program. A peer support member is not required to**
21 **be a licensed counselor or mental health professional, but may be such a person.**

22 **(4) "Peer support program" means a program established by a**
23 **governmental entity to provide peer support services to peace officers and**
24 **public safety personnel.**

25 **(5) "Peer support session" means any communication by a peace officer**
26 **or public safety personnel with a peer support member, which is accomplished**
27 **primarily through listening, assessing, and assisting with problem-solving, and**
28 **may include referring a peace officer or public safety personnel for professional**
29 **intervention or treatment that is beyond the scope of the peer support member.**

1 Peer support sessions also include group sessions following a critical incident
2 experienced by a group of peace officers or public safety personnel.

3 (6) "Peer support training" means training in peer support and critical
4 incident stress conducted by the Southern Law Enforcement Foundation, the
5 International Critical Incident Stress Foundation, Inc., or an equivalent
6 program.

7 (7) "Public safety personnel" means an employee of a governmental
8 entity who, by virtue of his job duties, provides support to peace officers,
9 including but not limited to dispatchers or 911 telecommunicators, crime scene
10 and crime laboratory technicians, and criminal analysts.

11 C. Peer Support Member Training

12 (1) Any governmental entity that establishes a peer support program for
13 peace officers and public safety personnel shall ensure that peer support
14 members successfully complete the training required by this Section before
15 being designated as a peer support member to provide emotional and moral
16 support to peace officers and public safety personnel. Except for participation
17 in a peer support session following a critical incident as may be required by a
18 governmental entity, no peace officer or public safety personnel shall be
19 mandated to participate in a peer support session.

20 (2) The provisions of this section apply only to peer support sessions
21 conducted by an employee or agent of a governmental entity who has both:

22 (a) Successfully completed peer support training as defined herein.

23 (b) At the time of the peer support session, been designated by a
24 governmental entity to act as a peer support member.

25 D. Communications

26 (1) The provisions of this Section shall apply to all oral and written
27 communications, notes, records, and reports arising out of a peer support
28 session or program. Any and all notes, records, reports, or documents,
29 regardless of how maintained, arising out of a peer support session are not

1 considered public records for the purpose of the Public Records Law, R.S. 44:1
2 et seq.

3 (2) This Section shall not prohibit or limit any communication between
4 peer support members, nor shall this Section prohibit governmental entities
5 from compiling and maintaining statistics relating to peer support sessions or
6 contacts that do not contain information that could in any way identify a peace
7 officer or public safety personnel participating in a peer support session.

8 (3) Nothing herein shall prohibit peer support members from sharing
9 among themselves any information, reports, records, or communications about
10 a peace officer or public safety personnel for purposes of furthering the goals
11 of the peer support program.

12 E. Privilege and Confidentiality

13 (1) Any and all information, reports, records, or communications,
14 whether oral, written, or electronic, that are made, generated, received, or
15 maintained by or in connection with a peer support program or session, are
16 deemed confidential, privileged, and exempt from the Public Record Law. No
17 person, including a peer support member, shall disclose any information,
18 reports, records, or communications relating to peer support sessions to anyone
19 without the prior written approval of the subject peace officer or public safety
20 personnel, or if the peace officer or public safety personnel is deceased, by his
21 successor. No person, including a peer support member, shall be required to
22 disclose, by way of testimony or otherwise, privileged information, or produce,
23 under subpoena or a public records request, any records, documents, opinions,
24 or decisions relating to such privileged information:

25 (a) In connection with any administrative, civil, or criminal case,
26 proceeding, or adjudication.

27 (b) By way of any discovery procedure.

28 (c) By way of any request for public records pursuant to R.S. 44:1, et.
29 seq.

1 **(2) Nothing in this Section shall limit the discovery or introduction in**
2 **evidence of knowledge acquired by any peace officer or public safety personnel**
3 **from observations made during the course of employment, or material or**
4 **information acquired during the course of employment, that was not discovered**
5 **during a peer support session and is otherwise subject to discovery or**
6 **introduction in evidence.**

7 **(3) This privilege does not apply to any of the following:**

8 **(a) Any threat of suicide or homicide made by a peace officer or public**
9 **safety personnel in a peer support session, or any information conveyed in a**
10 **peer support session relating to a threat of suicide or homicide.**

11 **(b) Any information mandated by law to be reported, including but not**
12 **limited to information relating to child or elderly abuse or neglect or domestic**
13 **violence.**

14 **(c) Any communication that reveals the commission of a crime, or the**
15 **intended commission of a crime or harmful act, when such disclosure is**
16 **determined by the peer support member to protect any person from a clear,**
17 **imminent risk of serious mental or physical harm or injury, or to forestall a**
18 **serious threat to the public safety.**

19 **(d) Any communication made to a peer support member not in**
20 **connection with a peer support session, or when the peer support member**
21 **responded to, was a witness to, or was a party to, an incident in a capacity other**
22 **than a peer support member.**

23 **(4) Any communication relating to a peer support session made**
24 **confidential under Subsection E of this Section that is made between peer**
25 **support members, or between peer support members and peace officers or**
26 **public safety personnel, is privileged and confidential and may not be disclosed,**
27 **except as otherwise provided in this Section.**

28 **(5) This law is supplementary to any other law, statute, or rule relating**
29 **to applicable privilege, confidentiality, and public records exemptions.**

1 (6)(a) Any peer support member or other person who reveals the
2 contents of a privileged communication, or any person who threatens,
3 intimidates, or in any way attempts to compel a peer support member to
4 disclose the contents of a privileged communication, shall be subject to any
5 discipline or penalties imposed by the governmental entity.

6 (b) In addition to the discipline or penalties provided by Subparagraph
7 (a) of this Paragraph, whoever violates the provisions of this Section shall be
8 guilty of a misdemeanor and upon conviction thereof shall be fined not more
9 than one thousand dollars, or imprisoned for not more than six months, or both.

10 F. Civil Immunity

11 (1) Any governmental entity who has a peer support program, and its
12 employees and agents, including peer support members, shall be immune from
13 civil liability for, or resulting from, any act, decision, omission, communication,
14 writing, report, finding, opinion, or conclusion, done by or made in good faith
15 while engaged in efforts to assist peace officers and public safety personnel
16 through a peer support program.

17 (2) A person who in good faith reports information or takes action in
18 connection with any peer support program is immune from civil liability for
19 reporting information or taking any such action, or participating therein, and
20 in particular, in any peer support session. This immunity shall not protect a
21 person who makes a report known to be false, or with reckless disregard for the
22 truth.

23 (3) The civil immunity provided by this Subsection shall be liberally
24 construed to accomplish the purposes of this Section.

25 Section 2. R.S. 44:4(59) is hereby enacted to read as follows:

26 §4. Applicability

27 This Chapter shall not apply:

28 * * *

29 (59) To any and all records, files, documents, communications, and

- 1 information contained therein, that are made, generated, received, or
 2 maintained by or in connection with a peace officer or public safety personnel
 3 peer support session or program conducted by a peer support member as
 4 defined in Code of Evidence Art. 518(B) or any other provision of law.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 482 Original 2020 Regular Session Mizell

Proposed law provides relative to peace officer and public safety personnel peer support and mental health and wellness and provides relative to the public policy of the state relative to the issues addressed by proposed law.

Proposed law provides the following definitions for purposes of proposed law:

- (1) "Governmental entity" means any board, authority, commission, department, office, division, or agency of the state or any of its political subdivisions.
- (2) "Peace officer" means any employee of the state, a municipality, a sheriff, or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, but not including any elected or appointed head of a law enforcement department. "Peace officer" also includes those sheriff's deputies whose duties include the care, custody, and control of inmates, military police officers within the Military Department of the state of Louisiana, security personnel employed by the La. Supreme Court, and security personnel employed by a court of appeal of the state of Louisiana.
- (3) "Peer support member" means a person, whether a peace officer or not, specially trained to voluntarily provide confidential, emotional and moral support and assistance to peace officers and public safety personnel, and approved as a peer support member by the governmental entity who has established a peer support program. A peer support member is not required to be a licensed counselor or mental health professional, but may be such a person.
- (4) "Peer support program" means a program established by a governmental entity to provide peer support services to peace officers and public safety personnel.
- (5) "Peer support session" means any communication by a peace officer or public safety personnel with a peer support member, which is accomplished primarily through listening, assessing, and assisting with problem-solving, and may include referring a peace officer or public safety personnel for professional intervention or treatment that is beyond the scope of the peer support member. Peer support sessions also include group sessions following a critical incident experienced by a group of peace officers or public safety personnel.
- (6) "Peer support training" means training in peer support and critical incident stress conducted by the Southern Law Enforcement Foundation, the International Critical Incident Stress Foundation, Inc., or an equivalent program.
- (7) "Public safety personnel" means an employee of a governmental entity who, by

virtue of his job duties, provides support to peace officers, including but not limited to dispatchers or 911 telecommunicators, crime scene and crime laboratory technicians, and criminal analysts.

Proposed law provides that any governmental entity that establishes a peer support program for peace officers and public safety personnel must ensure that peer support members successfully complete the training required by proposed law before being designated as a peer support member to provide emotional and moral support to peace officers and public safety personnel. Proposed law provides that, except for participation in a peer support session following a critical incident as may be required by a governmental entity, a peace officer or public safety personnel cannot be mandated to participate in a peer support session.

Proposed law provides that the provisions of proposed law apply only to peer support sessions conducted by an employee or agent of a governmental entity who has both:

- (1) Successfully completed peer support training as defined in proposed law.
- (2) At the time of the peer support session, been designated by a governmental entity to act as a peer support member.

Proposed law provides that the provisions of proposed law apply to all oral and written communications, notes, records, and reports arising out of a peer support session or program, and any and all notes, records, reports, or documents, regardless of how maintained, arising out of a peer support session are not considered public records for the purpose of present law (Public Records Law).

Proposed law does not prohibit or limit any communication between peer support members, nor prohibit governmental entities from compiling and maintaining statistics relating to peer support sessions or contacts that do not contain information that could in any way identify a peace officer or public safety personnel participating in a peer support session.

Proposed law does not prohibit peer support members from sharing among themselves any information, reports, records, or communications about a peace officer or public safety personnel for purposes of furthering the goals of proposed law.

Proposed law provides that any and all information, reports, records, or communications, whether oral, written, or electronic, that are made, generated, received, or maintained by or in connection with a peer support program or session, are deemed confidential, privileged, and exempt from present law (Public Record Law). Proposed law further provides that no person, including a peer support member, can disclose any information, reports, records, or communications relating to peer support sessions to anyone without the prior written approval of the subject peace officer or public safety personnel, or if the peace officer or public safety personnel is deceased, by his successor.

Proposed law provides that no person, including a peer support member, can be required to disclose, by way of testimony or otherwise, privileged information, or produce, under subpoena or a public records request, any records, documents, opinions, or decisions relating to such privileged information:

- (1) In connection with any administrative, civil, or criminal case, proceeding, or adjudication.
- (2) By way of any discovery procedure.
- (3) By way of any request for public records pursuant to present law.

Proposed law provides that nothing in proposed law limits the discovery or introduction in

evidence of knowledge acquired by any peace officer or public safety personnel from observations made during the course of employment, or material or information acquired during the course of employment, that was not discovered during a peer support session and is otherwise subject to discovery or introduction in evidence. Proposed law provides that this privilege does not apply to any of the following:

- (1) Any threat of suicide or homicide made by a peace officer or public safety personnel in a peer support session, or any information conveyed in a peer support session relating to a threat of suicide or homicide.
- (2) Any information mandated by law to be reported, including but not limited to information relating to child or elderly abuse or neglect or domestic violence.
- (3) Any communication that reveals the commission of a crime, or the intended commission of a crime or harmful act, when such disclosure is determined by the peer support member to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety.
- (4) Any communication made to a peer support member not in connection with a peer support session, or when the peer support member responded to, was a witness to, or was a party to, an incident in a capacity other than a peer support member.

Proposed law provides that any communication relating to a peer support session made confidential under proposed law that is made between peer support members, or between peer support members and peace officers or public safety personnel, is privileged and confidential and may not be disclosed, except as otherwise provided in proposed law.

Proposed law provides that it is supplementary to any other present law relating to applicable privilege, confidentiality, and public records exemptions.

Proposed law provides that any peer support member or other person who reveals the contents of a privileged communication, or any person who threatens, intimidates, or in any way attempts to compel a peer support member to disclose the contents of a privileged communication, is subject to discipline or penalties imposed by the governmental entity, and further is guilty of a misdemeanor and subject to a fine of up to \$1,000, or imprisonment of up to six months, or both.

Proposed law provides that any governmental entity who has a peer support program, and its employees and agents, including peer support members, is immune from civil liability for, or resulting from, any act, decision, omission, communication, writing, report, finding, opinion, or conclusion, done by or made in good faith while engaged in efforts to assist peace officers and public safety personnel through a peer support program.

Proposed law provides that a person who in good faith reports information or takes action in connection with any peer support program is immune from civil liability for reporting information or taking any such action, or participating therein, and in particular, in any peer support session. Proposed law further provides that this immunity does not protect a person who makes a report known to be false, or with reckless disregard for the truth. Proposed law further provides that the civil immunity provided by proposed law is to be liberally construed to accomplish the purposes of proposed law.

Present law provides exemptions from the Public Records Law.

Proposed law retains present law and adds that the Public Records Law does not apply to any and all records, files, documents, communications, and information contained therein, that are made, generated, received, or maintained by or in connection with a peace officer or public safety personnel peer support session or program conducted by a peer support member as defined in present law and proposed law.

Effective August 1, 2020.

(Adds R.S. 40:2411 and R.S. 44:4(59))