

2021 Regular Session

SENATE BILL NO. 66

BY SENATORS BERNARD, ABRAHAM, ALLAIN, BARROW, BOUDREAUX, BOUIE, CATHEY, CLOUD, CORTEZ, FIELDS, FOIL, HARRIS, HENRY, HEWITT, JACKSON, JOHNS, LUNEAU, MILLIGAN, FRED MILLS, ROBERT MILLS, MIZELL, MORRIS, PEACOCK, POPE, PRICE, REESE, SMITH, TALBOT, TARVER, WARD, WHITE AND WOMACK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LAW ENFORCEMENT. Provides for the Peace Officer and Public Safety Personnel Peer Support and Mental Health Wellness Act. (8/1/21)

AN ACT

To enact Chapter 18-A of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2411, and R.S. 44:4(59), relative to public health and safety; to provide for the Peace Officer and Public Safety Personnel Peer Support and Mental Health and Wellness Act; to provide relative to legislative intent; to provide definitions; to provide guidelines for training of peer support members; to exempt certain records relating to peace officer and public safety personnel peer support programs from public access; to provide relative to privilege and confidentiality; to provide penalties for violations of the confidentiality provisions of the Act; to provide for civil immunity under certain circumstances; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 18-A of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2411, is hereby enacted to read as follows:

CHAPTER 18-A. PEACE OFFICER AND PUBLIC SAFETY PERSONNEL

PEER SUPPORT AND MENTAL HEALTH AND WELLNESS

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

1 Health and Wellness Act

2 A. Legislative intent and statement of public policy. (1) Peace officers
3 and public safety personnel are often exposed to traumatic, hazardous, violent,
4 and life-threatening situations throughout their careers. The very nature of the
5 work they perform can also cause stress in their personal life and familial
6 relationships. These factors cumulatively can take a toll on both the mental and
7 physical well-being of our peace officers and public safety personnel, which in
8 turn can affect their job performance. Peace officers and public safety
9 personnel are no less susceptible than any other citizens of Louisiana to mental
10 health issues, including depression, alcoholism, and drug addiction.

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

21 (3) Peace officers and public safety personnel who protect and serve the
22 public are often reluctant to seek help for themselves. It is important that those
23 in positions to offer assistance have a full understanding of the job of peace
24 officers and those personnel who support their mission. In an effort to manage
25 stress and support the overall wellness and mental health of peace officers and
26 public safety personnel, and for the benefit and safety of the general public they
27 serve, peace officers and public safety personnel are hereby encouraged to seek
28 assistance from their peers and to feel confident that their participation in a
29 peer support program shall be privileged and confidential in all respects and

1 shall not be divulged to the public.

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

9 B. Except for participation in a peer support session following a critical
10 incident as may be required by a governmental entity, no peace officer or public
11 safety personnel shall be mandated to participate in a peer support session or
12 program.

13 C. Definitions. For purposes of this Section:

14 (1) "Governmental entity" means any board, authority, commission,
15 department, office, division, or agency of the state or any of its political
16 subdivisions.

17 (2) "Peace officer" means any of the following:

18 (a) An employee of the state, a municipality, a sheriff, or other public
19 agency, whose permanent duties include the making of arrests, the performing
20 of searches and seizures, or the execution of criminal warrants, and who is
21 responsible for the prevention or detection of crime or for the enforcement of
22 the penal, traffic, or highway laws of this state, but does not include any elected
23 or appointed head of a law enforcement department.

24 (b) A sheriff's deputy whose duties include the care, custody, and control
25 of inmates.

26 (c) A military police officer within the Military Department, state of
27 Louisiana.

28 (d) Security personnel employed by the Louisiana Supreme Court.

29 (e) Security personnel employed by a court of appeal of the state of

1 **Louisiana.**

2 **(3) "Peer support member" means a person, whether a peace officer or**
3 **not, specifically trained and certified in peer support training, as defined in this**
4 **Subsection, to voluntarily provide confidential emotional and moral support**
5 **and assistance to peace officers and public safety personnel, and approved as a**
6 **peer support member by the executive director of the Louisiana Commission**
7 **on Law Enforcement and Administration of Criminal Justice. A peer support**
8 **member may be, but is not required to be, a licensed counselor or mental health**
9 **professional.**

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

13 **(5) "Peer support session" means any communication by a peace officer**
14 **or public safety personnel with a peer support member, accomplished primarily**
15 **through listening, assessing, and assisting with problem-solving, and may**
16 **include referring a peace officer or public safety personnel for professional**
17 **intervention or treatment that is beyond the scope of the peer support member.**
18 **A peer support session also includes a group session following a critical incident**
19 **experienced by a group of peace officers or public safety personnel.**

20 **(6) "Peer support training" means training in peer support and critical**
21 **incident stress conducted by the Southern Law Enforcement Foundation, the**
22 **International Critical Incident Stress Foundation, Inc., or an equivalent**
23 **program as approved by the executive director of the Louisiana Commission on**
24 **Law Enforcement and Administration of Criminal Justice.**

25 **(7) "Public safety personnel" means an employee of a governmental**
26 **entity who, by virtue of his job duties, provides support to peace officers,**
27 **including but not limited to a dispatcher, public safety telecommunicator as**
28 **defined in R.S. 40:1131, crime scene and crime laboratory technician, and**
29 **criminal analyst.**

1 **D. Peer support member training. (1) Any governmental entity that**
2 **establishes a peer support program shall ensure that a peer support member**
3 **successfully completes the training required by this Section before being**
4 **designated as a peer support member to provide emotional and moral support**
5 **to peace officers and public safety personnel.**

6 **(2) The provisions of this Section apply only to peer support sessions**
7 **conducted by an employee or agent of a governmental entity who has:**

8 **(a) Successfully completed peer support training.**

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

11 **E. Privilege and confidentiality. (1) Any and all information, reports,**
12 **records, or communications, whether oral, written, or electronic, that are made,**
13 **generated, received, or maintained by or in connection with a peer support**
14 **program or session, are considered privileged and confidential and shall not be**
15 **considered public records for the purposes of the Public Records Law, R.S. 44:1**
16 **et seq.**

17 **(2)(a) Except as otherwise provided by this Chapter, no person, including**
18 **a peer support member, shall disclose any information, reports, records, or**
19 **communications described in Paragraph (1) of this Subsection to any other**
20 **person without the prior written approval of the peace officer or public safety**
21 **personnel who is the subject of the peer support session or if the peace officer**
22 **or public safety personnel is deceased, by his legal successor.**

23 **(b) This Paragraph shall not prohibit or limit any communication**
24 **between peer support members, nor prohibit or limit peer support members**
25 **from sharing among themselves any information, reports, records, or**
26 **communications about a peace officer or public safety personnel, when done for**
27 **the purpose of furthering the goals of the peer support program.**

28 **(c) This Paragraph shall not prohibit a governmental entity from**
29 **compiling and maintaining statistics relating to a peer support program or**

1 sessions, provided that these statistics shall not contain information that could
2 in any way identify a peace officer or public safety personnel participating in
3 a peer support session or program.

4 (3) No person, including a peer support member, shall be required to
5 disclose, by way of testimony or otherwise, information made privileged and
6 confidential by this Subsection or to produce, under subpoena or a public
7 records request, any records, documents, opinions, or decisions relating to
8 privileged or confidential information:

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

11 (b) By way of any discovery procedure.

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

13 (4) The privilege and confidentiality provided by this Subsection are
14 supplementary to any other statute, rule, or jurisprudence creating or relating
15 to an applicable privilege, confidentiality, or public records exemption.

16 (5)(a) Any peer support member or other person who reveals the
17 contents of a communication made privileged or confidential by this Subsection,
18 or any person who threatens, intimidates, or attempts to compel a peer support
19 member to disclose the contents of a privileged or confidential communication,
20 shall be subject to any discipline or penalties imposed by the governmental
21 entity.

22 (b) In addition to the discipline or penalties provided by Subparagraph
23 (a) of this Paragraph, whoever violates the provisions of this Subsection shall
24 be guilty of a misdemeanor, and upon conviction thereof, shall be fined not
25 more than one thousand dollars, or imprisoned for not more than six months,
26 or both.

27 (6) The privilege and confidentiality provided by this Subsection shall
28 not apply to any of the following:

29 (a) A threat of suicide or homicide made by a peace officer or public

1 safety personnel in a peer support session or any information conveyed in a peer
2 support session relating to a threat of suicide or homicide.

3 (b) Information mandated by law to be reported, including but not
4 limited to information relating to child abuse or neglect, elderly abuse or
5 neglect, or domestic violence.

6 (c) Any communication that reveals the commission of a crime.

7 (d) Any communication that reveals the intended commission of a crime
8 or harmful act, when disclosure of the communication is determined by the peer
9 support member to be required in order to protect any person from a clear,
10 imminent risk of serious mental or physical harm or injury, or to forestall a
11 serious threat to public safety.

12 (e) Any communication made to a peer support member not in
13 connection with a peer support session, or in the course of an incident that the
14 peer support member responded to, was a witness to, or was a party to, in a
15 capacity other than a peer support member.

16 (7) Nothing in this Subsection shall limit the discovery or introduction
17 in evidence of knowledge acquired by a peace officer or public safety personnel
18 from observations made by him during the course of his employment, or
19 material or information acquired by him during the course of his employment,
20 that was not discovered during a peer support session and is otherwise subject
21 to discovery or introduction in evidence.

22 F. Civil immunity. (1) Any governmental entity that has a peer support
23 program, and its employees and agents, including peer support members, shall
24 be immune from civil liability for, or resulting from, any act, decision, omission,
25 communication, writing, report, finding, opinion, or conclusion, done or made
26 in good faith while engaged in efforts to assist a peace officer or public safety
27 personnel through a peer support program.

28 (2) A person who in good faith reports information or takes action in
29 connection with any peer support program is immune from civil liability for

1 reporting the information or taking such action, or participating therein, and
 2 in particular, reporting information or taking action arising out of any peer
 3 support session. This immunity shall not protect a person who makes a report
 4 known to be false or with reckless disregard for the truth.

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

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

8 §4. Applicability

9 This Chapter shall not apply:

10 * * *

11 (59)(a) To any records, files, documents and communications, and
 12 information contained therein, that are made, generated, received, or
 13 maintained by or in connection with a peace officer and public safety personnel
 14 peer support program or session conducted by a trained peer support member,
 15 as defined in R.S. 40:2411(C) or any other provision of law.

16 (b) To any records, files, documents, and communications, and
 17 information contained therein, that are made, generated, received, or
 18 maintained by the Louisiana Commission on Law Enforcement and
 19 Administration of Criminal Justice relating to the personal information of
 20 approved peer support members as defined in R.S. 40:2411(C) or any other
 21 provision of law.

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl Serrett.

DIGEST

SB 66 Reengrossed 2021 Regular Session Bernard

Proposed law provides relative to peace officers and public safety personnel peer support, and provides relative to legislative intent and public policy of the state with regard to the matters addressed by proposed law.

Proposed law provides that a peace officer or public safety personnel cannot be mandated to participate in a peer support session, except for participation in a peer support session following a critical incident if required by a governmental entity.

Proposed law provides the following definitions:

- (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 of the following:
 - (a) An employee of the state or public agency whose permanent duties include making arrests, performing searches and seizures, or executing criminal warrants, and who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of this state, but does not include any elected or appointed head of a law enforcement department.
 - (b) A sheriff's deputy whose duties include the care, custody, and control of inmates.
 - (c) A military police officer within the Military Department, state of Louisiana.
 - (d) Security personnel employed by the La. Supreme Court.
 - (e) Security personnel employed by any court of appeal of the state.
- (3) "Peer support member" means a person specially trained and certified to voluntarily provide confidential emotional and moral support and assistance to peace officers and public safety personnel and who is approved as a peer support member by the executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, but need not be a peace officer or a licensed counselor or mental health professional.
- (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, 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, and includes a group session 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 as approved by the executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.
- (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 a dispatcher, public safety telecommunicator, crime scene and crime laboratory technician, and criminal analyst.

Proposed law provides that any governmental entity that establishes a peer support program must ensure that peer support members successfully complete the training required by proposed law before being designated as a peer support member.

Proposed law applies only to peer support sessions conducted by an employee or agent of a governmental entity who has both successfully completed peer support training and, at the time of the peer support session, has been designated by a governmental entity to act as a peer support member.

Proposed law provides that information, reports, records, or communications in any form that are made, generated, received, or maintained in connection with a peer support program or session are deemed privileged and confidential, and are not public records.

Proposed law provides that except as provided by law, no person, including a peer support member, can disclose any information relating to a peer support session to any other person without the prior written approval of the peace officer or public safety personnel who is the subject of the peer support session, or his legal successor. However, proposed law provides that this does not prohibit or limit communication between peer support members, and does not prohibit or limit peer support members from sharing among themselves information about a peace officer or public safety personnel for purposes of furthering the goals of proposed law. Proposed law further provides that a governmental entity is not prohibited from compiling and maintaining statistics relating to a peer support program or session, but these statistics cannot contain information that could identify a peace officer or public safety personnel participating in a session or program.

Proposed law provides that a person cannot be required to disclose, under subpoena or public records request, any records, documents, opinions, or decisions relating to information made privileged and confidential by proposed law either in connection with an administrative or court case, or by way of any discovery procedure or public records request.

Proposed law provides that the privilege and confidentiality created by proposed law are supplementary to any other statute, rule, or jurisprudence creating or relating to an applicable privilege, confidentiality, or public records exemption.

Proposed law provides that any person who reveals the contents of a privileged or confidential communication, or any person who threatens, intimidates, or attempts to compel a peer support member to disclose the contents of a privileged communication, is subject to any discipline or penalties imposed by the governmental entity. Additionally, proposed law provides that such person is guilty of a misdemeanor and will be fined up to \$1,000, or imprisoned for up to six months, or both.

Proposed law provides that the privilege and confidentiality created by proposed law does not apply to:

- (1) A threat of suicide or homicide made by a peace officer or public safety personnel in a peer support session or any information related thereto.
- (2) Information mandated by law to be reported, including information relating to child or elderly abuse or neglect, or domestic violence.
- (3) Any communication that reveals the commission of a crime.
- (4) Any communication that reveals the intended commission of a crime or harmful act.
- (5) 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 does not limit the discovery or introduction in evidence of knowledge acquired by a 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 any governmental entity and its employees and agents (including peer support members) are immune from civil liability for any act or omission made in good faith while engaged in efforts to assist a peace officer or public safety personnel through a

peer support program. Proposed law further 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 or taking such action, but this immunity does not protect a person who makes a report known to be false or with reckless disregard for the truth.

Proposed law provides that the civil immunity created by proposed law is to be liberally construed to accomplish the purposes of proposed law.

Present law provides relative to the Public Records Law and provides exemptions from present law.

Proposed law retains present law and adds that the Public Records Law does not apply to records, files, documents, and communications, and information contained therein, that are made, generated, received, or maintained by or in connection with a peace officer and public safety personnel peer support program or session conducted by a trained peer support member. Also adds that Public Records Law does not apply to any records, files, documents, and communications, and any information contained therein, that are made, generated, received, or maintained by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice relating to personal information of approved peer support members.

Effective August 1, 2021.

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

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Deletes the requirement in the definition of "peer support member" that the member be approved by the governmental entity that established the peer support program.

Senate Floor Amendments to engrossed bill

1. Clarify the definitions of "peer support member" and "peer support training".
2. Clarify that when peer support information may be disclosed without written approval of the peace officer who is the subject of a peer support session.
3. Clarify that privilege and confidentiality does not apply to commission of a crime or the intended commission of a crime or harmful act.
4. Provide that records that the Public Records Law does not apply to any records, files, documents, and information made, generated, received, or maintained by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice relating to certain peer support members.
5. Make technical corrections.