

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 AND REPRESENTATIVES CORMIER, HORTON, MIKE JOHNSON, LARVADAIN, CHARLES OWEN AND THOMPSON

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

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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 Health and Wellness Act

A. Legislative intent and statement of public policy. (1) Peace officers and public safety personnel are often exposed to traumatic, hazardous, violent, and life-threatening situations throughout their careers. The very nature of the

1 work they perform can also cause stress in their personal life and familial
2 relationships. These factors cumulatively can take a toll on both the mental and
3 physical well-being of our peace officers and public safety personnel, which in
4 turn can affect their job performance. Peace officers and public safety
5 personnel are no less susceptible than any other citizens of Louisiana to mental
6 health issues, including depression, alcoholism, and drug addiction.

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

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

27 (4) It is hereby declared to be the public policy of the state of Louisiana
28 to promote and encourage the use of trained peers for support among peace
29 officers and public safety personnel. The intent of this Act is to further this goal
30 by providing for a privilege, confidentiality of information, and tort immunity

1 for governmental entities, their agents, employees, and persons who, on their
2 behalf, furnish information and participate as volunteers in peer support
3 programs for peace officers and public safety personnel.

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

8 C. Definitions. For purposes of this Section:

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

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

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

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

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

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

24 (e) Security personnel employed by a court of appeal of the state of
25 Louisiana.

26 (3) "Peer support member" means a person, whether a peace officer or
27 not, specifically trained and certified in peer support training, as defined in this
28 Subsection, to voluntarily provide confidential emotional and moral support
29 and assistance to peace officers and public safety personnel, and approved as a
30 peer support member by the executive director of the Louisiana Commission

1 on Law Enforcement and Administration of Criminal Justice. A peer support
2 member may be, but is not required to be, a licensed counselor or mental health
3 professional.

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

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

14 (6) "Peer support training" means training in peer support and critical
15 incident stress conducted by the Southern Law Enforcement Foundation, the
16 International Critical Incident Stress Foundation, Inc., or an equivalent
17 program as approved by the executive director of the Louisiana Commission on
18 Law Enforcement and Administration of Criminal Justice.

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

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

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

1 (a) Successfully completed peer support training.

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

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

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

16 (b) This Paragraph shall not prohibit or limit any communication
17 between peer support members, nor prohibit or limit peer support members
18 from sharing among themselves any information, reports, records, or
19 communications about a peace officer or public safety personnel, when done for
20 the purpose of furthering the goals of the peer support program.

21 (c) This Paragraph shall not prohibit a governmental entity from
22 compiling and maintaining statistics relating to a peer support program or
23 sessions, provided that these statistics shall not contain information that could
24 in any way identify a peace officer or public safety personnel participating in
25 a peer support session or program.

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

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

3 (b) By way of any discovery procedure.

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

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

8 (5)(a) Any peer support member or other person who reveals the
9 contents of a communication made privileged or confidential by this Subsection,
10 or any person who threatens, intimidates, or attempts to compel a peer support
11 member to disclose the contents of a privileged or confidential communication,
12 shall be subject to any discipline or penalties imposed by the governmental
13 entity.

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

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

21 (a) A threat of suicide or homicide made by a peace officer or public
22 safety personnel in a peer support session or any information conveyed in a peer
23 support session relating to a threat of suicide or homicide.

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

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

28 (d) Any communication that reveals the intended commission of a crime
29 or harmful act, when disclosure of the communication is determined by the peer
30 support member to be required in order to protect any person from a clear,

1 imminent risk of serious mental or physical harm or injury, or to forestall a
 2 serious threat to public safety.

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

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

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

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

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

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

28 §4. Applicability

29 This Chapter shall not apply:

30 * * *

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

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

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____