

Enrolled House Bill 3171

Sponsored by Representatives BOWMAN, HELM; Representative GRAYBER (at the request of TriMet)

CHAPTER

AN ACT

Relating to peer counseling conducted by mass transit district; amending ORS 181A.835.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 181A.835 is amended to read:

181A.835. (1) For the purposes of this section:

(a) "Emergency services provider" means any public employer that employs persons to provide firefighting services.

(b) "Emergency services personnel" means any employee of an emergency services provider who is engaged in providing firefighting services.

(c) "Employee assistance program" means a program established by a law enforcement agency [or], emergency services provider **or mass transit district** to provide counseling or support services to employees of the law enforcement agency [or], emergency services provider **or mass transit district**.

(d) "Law enforcement agency" means any county sheriff, municipal police department, police department established by a university under ORS 352.121 or 353.125, the Oregon State Police and any state or local public body that employs or utilizes public safety personnel.

(e) **"Mass transit district" means a mass transit district established under ORS 267.010 to 267.394.**

(f) **"Mass transit district personnel" means an employee of a mass transit district.**

[(e)] (g) "Public safety personnel" means a sheriff, deputy sheriff, municipal police officer, police officer commissioned by a university under ORS 352.121 or 353.125, state police officer, parole and probation officer, corrections employee, certified reserve officer, reserve officer, telecommunicator or emergency medical dispatcher.

(2) Any communication made by a participant or counselor in a peer support counseling session conducted by a law enforcement agency [or by], an emergency services provider **or a mass transit district** for public safety personnel [or], emergency services personnel **or mass transit district personnel**, and any oral or written information conveyed in the peer support counseling session, is confidential and may not be disclosed by any person participating in the peer support counseling session.

(3) Any communication relating to a peer support counseling session made confidential under subsection (2) of this section that is made between counselors, between counselors and the supervisors or staff of an employee assistance program, or between the supervisors or staff of an employee assistance program, is confidential and may not be disclosed.

(4) The provisions of this section apply only to peer support counseling sessions conducted by an employee or other person who:

(a) Has been designated by a law enforcement agency [or], emergency services provider **or mass transit district**, or by an employee assistance program, to act as a counselor; and

(b) Has received training in counseling and in providing emotional and moral support to public safety personnel [or], emergency services personnel **or mass transit district personnel** who have been involved in emotionally traumatic incidents by reason of their employment.

(5) The provisions of this section apply to all oral communications, notes, records and reports arising out of a peer support counseling session. Any notes, records or reports arising out of a peer support counseling session are not public records for the purpose of ORS 192.311 to 192.478.

(6) Any communication made by a participant or counselor in a peer support counseling session subject to this section, and any oral or written information conveyed in a peer support counseling session subject to this section, is not admissible in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. Communications and information made confidential under this section may not be disclosed by the participants in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. The limitations on disclosure imposed by this subsection include disclosure during any discovery conducted as part of an adjudicatory proceeding.

(7) Nothing in this section limits the discovery or introduction in evidence of knowledge acquired by any public safety personnel [or], emergency services personnel **or mass transit district personnel** from observation made during the course of employment, or material or information acquired during the course of employment, that is otherwise subject to discovery or introduction in evidence.

(8) This section does not apply to:

(a) Any threat of suicide or homicide made by a participant in a peer support counseling session, or any information conveyed in a peer support counseling session relating to a threat of suicide or homicide;

(b) Any information relating to abuse of children or of the elderly, or other information that is required to be reported by law; or

(c) Any admission of criminal conduct.

(9) This section does not prohibit any communications between counselors who conduct peer support counseling sessions, or any communications between counselors and the supervisors or staff of an employee assistance program.

Passed by House May 4, 2023

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

Passed by Senate June 23, 2023

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Rob Wagner, President of Senate

Received by Governor:

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Approved:

.....M,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State