

HB 3929 -2 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 3/25, 4/8

WHAT THE MEASURE DOES:

The measure prohibits the examination in a civil or criminal court proceeding of a "peer supporter" about communications made by "peer support services recipients," such as police officers, firefighters, emergency medical services providers, and corrections officers, so long as the recipient was communicating while receiving peer support services in the recipient's official capacity, the peer supporter was acting in their official capacity, a "public safety agency" designated the peer supporter as a peer supporter prior to the communication, and the peer supporter was not involved in any traumatic event that caused the recipient to need peer support services. The measure defines "peer supporter," "peer support services recipient," "public safety agency," and other relevant terms. The measure applies regardless of whether the peer supporter and recipient are employed by the same employer and applies to communications made on or after the measure's effective date.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 The amendment replaces the measure and incorporates some of the measure's proposed changes into current confidentiality protections for peer support services in ORS 181A.835. The amendment restructures the definitions in ORS 181A.835 so that the peer support services confidentiality protections cover "peer support services," not just "peer support counseling sessions," provided by "public safety agencies," "mass transit districts," and "emergency services providers" to their employees via designated and trained "peer supporters." The amendment places limits on the circumstances under which these communications are confidential and clarifies that the covered communications are confidential, are not admissible and judicial proceedings, and are not public records. And the amendment adds the Marshal's Office of the Oregon Judicial Department to the definition of "public safety agency."

REVENUE: No revenue impact.

FISCAL: Has minimal fiscal impact.

BACKGROUND:

First responders experience a higher rate of traumatic events than the general public. One study reports that compared to non-first responders, of whom about 50 percent experience a traumatic event in their lifetime, 84 percent of first responders report experiencing a traumatic event. Klimley, Kristin E., Van Hasselt, Vincent B., and Stripling, Ashley M. "Posttraumatic stress disorder in police, firefighters, and emergency dispatchers." *Aggression and Violent Behavior* 43 (December 2018): 33-44. <https://doi.org/10.1016/j.avb.2018.08.005>. According to that same study, law enforcement, firefighters, and dispatchers have a PTSD prevalence between seven and 22 percent compared to only four percent for the general public. One tool to address impacts of these traumatic events employed by public safety agencies is peer support services that provide emotional and moral support to first responders involved in traumatic incidents on the job. A key component of many services, including peer support services, is their confidentiality.

Under ORS 181A.835, "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 for public safety personnel

or emergency services 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." In addition, such communications are "not admissible in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding," which includes "during any discovery conducted as part of an adjudicatory proceeding." The protections in ORS 181.A.835 apply to firefighters, sheriffs, police officers, parole and probation officers, corrections employees, reserve officers, telecommunicators, and emergency medical dispatchers. This confidentiality is not absolute; the statute states that the section does not limit evidence that is otherwise subject to discovery or introduction into evidence and clarifies that the section does not apply to threats of suicide or homicide, information subject to mandatory reporting such as child or elder abuse, or admissions of criminal conduct. It also clarifies that it does not prohibit communications between peer support counselors and other employee assistance program staff.