

House Bill 2324

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes participant in peer support counseling session to waive confidentiality of communications made or information conveyed by participant in session.

Provides that exception to confidentiality and waiver provisions for admission of criminal conduct does not apply to allegation of use of excessive force in line of duty.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to confidentiality in peer support counseling sessions; amending ORS 181.860; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 181.860 is amended to read:

6 181.860. (1) For the purposes of this section:

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

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

11 (c) "Employee assistance program" means a program established by a law enforcement agency
12 or emergency services provider to provide counseling or support services to employees of the law
13 enforcement agency or emergency services provider.

14 (d) "Law enforcement agency" means any county sheriff, municipal police department, police
15 department established by a university under ORS 352.383 or 353.125, the Oregon State Police and
16 any state or local public body that employs public safety personnel.

17 (e) "**Participant**" means the person being counseled in a peer support counseling session
18 conducted by a law enforcement agency for public safety personnel or by an emergency ser-
19 vices provider for emergency services personnel.

20 (f) "**Peer support counseling session**" means a counseling session conducted by a law
21 enforcement agency for public safety personnel or by an emergency services provider for
22 emergency services personnel.

23 [(e)] (g) "Public safety personnel" means a sheriff, deputy sheriff, municipal police officer, police
24 officer commissioned by a university under ORS 352.383 or 353.125, state police officer, parole and
25 probation officer, corrections employee, certified reserve officer, telecommunicator or emergency
26 medical dispatcher.

27 (2)(a) Any communication made by a participant or counselor in a peer support counseling ses-
28 sion [conducted by a law enforcement agency or by an emergency services provider for public safety
29 personnel or emergency services personnel], and any oral or written information conveyed in the peer

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 support counseling session, is confidential and may not be disclosed by any person participating in
 2 the peer support counseling session.

3 **(b) Notwithstanding paragraph (a) of this subsection, the participant in a peer support**
 4 **counseling session may waive confidentiality with respect to any communication made or any**
 5 **information conveyed by the participant in the session.**

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

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

12 (a) Has been designated by a law enforcement agency or emergency services provider, or by an
 13 employee assistance program, to act as a counselor; and

14 (b) Has received training in counseling and in providing emotional and moral support to public
 15 safety personnel or emergency services personnel who have been involved in emotionally traumatic
 16 incidents by reason of their employment.

17 (5) The provisions of this section apply to all oral communications, notes, records and reports
 18 arising out of a peer support counseling session. Any notes, records or reports arising out of a peer
 19 support counseling session are not public records for the purpose of ORS 192.410 to 192.505.

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

28 (7) Nothing in this section limits the discovery or introduction in evidence of knowledge ac-
 29 quired by any public safety personnel or emergency services personnel from observation made dur-
 30 ing the course of employment, or material or information acquired during the course of employment,
 31 that is otherwise subject to discovery or introduction in evidence.

32 (8) This section does not apply to:

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

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

38 (c) Any admission of criminal conduct, **other than an allegation of use of excessive force in**
 39 **the line of duty.**

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

43 **SECTION 2. This 2015 Act being necessary for the immediate preservation of the public**
 44 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
 45 **on its passage.**

