

HOUSE BILL No. 2557

By Committee on Judiciary

Requested by Ed Klumpp on behalf of the Kansas Association of Chiefs of Police,
the Kansas Peace Officers Associations and the Kansas Sheriffs Association

1-19

1 AN ACT concerning the rules of evidence; relating to peer support
2 counseling session communication privilege; expanding the definition
3 of peer support counseling session; amending K.S.A. 2023 Supp. 60-
4 473 and repealing the existing section.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2023 Supp. 60-473 is hereby amended to read as
8 follows: 60-473. (a) For the purposes of this section:

9 (1) "Emergency services personnel" means any employee or
10 volunteer of an emergency services provider who is engaged in providing
11 or supporting firefighting, dispatching services and emergency medical
12 services.

13 (2) "Emergency services provider" means any public employer that
14 employs persons to provide firefighting, dispatching services and
15 emergency medical services.

16 (3) "Employee assistance program" means a program established by a
17 law enforcement agency, emergency services provider or the Kansas
18 national guard to provide professional counseling or support services to
19 employees of a law enforcement agency, emergency services provider,
20 national guard member or a professional mental health provider associated
21 with a peer support team.

22 (4) "Law enforcement agency" means any public agency that
23 employs law enforcement officers.

24 (5) "Law enforcement personnel" means a law enforcement officer, as
25 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto, an
26 employee or volunteer of a law enforcement agency.

27 (6) "National guard member" means a regularly enlisted, officer or
28 civilian member of the Kansas national guard.

29 (7) "Peer support counseling session" means any session conducted
30 by a peer support specialist ~~that who is called or requested in response to~~
31 ~~contacted regarding~~ a critical incident ~~or, traumatic event involving the~~
32 ~~personnel, professional, personal or social problem or difficult life event~~
33 *where peer counseling assistance and guidance would benefit members of*
34 *the law enforcement agency, emergency services provider or the Kansas*

1 national guard, *regardless of how the specialist is contacted, whether the*
2 *session is conducted in a group or private setting, where the session is*
3 *requested or conducted or whether the session was conducted using*
4 *electronic communications.*

5 (8) "Peer support specialist" is a person:

6 (A) Designated by a law enforcement agency, emergency services
7 provider, the Kansas national guard, employee assistance program or peer
8 support team leader to lead, moderate or assist in a peer support counseling
9 session;

10 (B) who is a member of a peer support team; and

11 (C) has received training in counseling and providing emotional and
12 moral support to law enforcement officers, emergency services personnel
13 or national guard members who have been involved in emotionally
14 traumatic incidents by reason of their employment.

15 (9) "Peer support team" means a group of peer support specialists
16 serving one or more law enforcement providers or emergency services
17 providers.

18 (b) Any communication made by a participant or peer support
19 specialist in a peer support counseling session pursuant to this section, and
20 any oral or written information conveyed in or as the result of the peer
21 support counseling session, are confidential and may not be disclosed by
22 any person participating in the peer support counseling session.

23 (c) Any communication relating to a peer support counseling session
24 made confidential under subsection (b) that is made between peer support
25 specialists, between peer support specialists and the supervisors or staff of
26 an employee assistance program, or between the supervisors or staff of an
27 employee assistance program, is confidential and may not be disclosed.

28 (d) The provisions of this section apply only to peer support
29 counseling sessions conducted by a peer support specialist.

30 (e) (1) The provisions of this section apply to all oral
31 communications, notes, records and reports arising out of a peer support
32 counseling session.

33 (2) Any notes, records or reports arising out of a peer support
34 counseling session shall not be public records and shall not be subject to
35 the open records act, K.S.A. 45-215 et seq., and amendments thereto. The
36 provisions of this paragraph shall not be required to be reviewed by the
37 legislature and shall not expire in accordance with K.S.A. 45-229, and
38 amendments thereto.

39 (f) Any communication made by a participant or peer support
40 specialist in a peer support counseling session subject to this section, and
41 any oral or written information conveyed in a peer support counseling
42 session subject to this section, are not admissible in any judicial
43 proceeding, administrative proceeding, arbitration proceeding or other

1 adjudicatory proceeding. Communications and information made
2 confidential under this section shall not be disclosed by the participants in
3 any judicial proceeding, administrative proceeding, arbitration proceeding
4 or other adjudicatory proceeding. The limitations on disclosure imposed by
5 this subsection include disclosure during any discovery conducted as part
6 of an adjudicatory proceeding.

7 (g) Nothing in this section limits the discovery or introduction into
8 evidence of knowledge acquired by any law enforcement personnel or
9 emergency services personnel from observation made during the course of
10 employment, or material or information acquired during the course of
11 employment, that is otherwise subject to discovery or introduction into
12 evidence.

13 (h) This section does not apply to any:

14 (1) Threat of suicide or criminal act made by a participant in a peer
15 support counseling session, or any information conveyed in a peer support
16 counseling session relating to a threat of suicide or criminal act;

17 (2) information relating to abuse of spouses, children or the elderly,
18 or other information that is required to be reported by law;

19 (3) admission of criminal conduct;

20 (4) disclosure of testimony by a participant who received peer
21 support counseling services and expressly consented to such disclosure; or

22 (5) disclosure of testimony by the surviving spouse or executor or
23 administrator of the estate of a deceased participant who received peer
24 support counseling services and such surviving spouse or executor or
25 administrator expressly consented to such disclosure.

26 (i) This section does not prohibit any communications between peer
27 support specialists who conduct peer support counseling sessions, or any
28 communications between peer support specialists and the supervisors or
29 staff of an employee assistance program.

30 (j) This section does not prohibit communications regarding fitness of
31 an employee for duty between an employee assistance program and an
32 employer.

33 (k) This section shall be a part of and supplemental to article 4 of
34 chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

35 Sec. 2. K.S.A. 2023 Supp. 60-473 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its
37 publication in the statute book.