

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1415 Peer Support for First Responders

SPONSOR(S): Civil Justice Subcommittee, Chamberlin

TIED BILLS: **IDEN./SIM. BILLS:** SB 1712

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	17 Y, 0 N, As CS	Mathews	Jones
2) Judiciary Committee	20 Y, 0 N	Mathews	Kramer

SUMMARY ANALYSIS

First responders, such as police officers, firefighters, and paramedics, are often exposed to traumatic events that can lead to post-traumatic stress disorder (PTSD), depression, and suicide. While some first responders report positive experiences with professional mental health help, others feel more distressed after such intervention. Peer support can reduce the stigma, scheduling difficulties, lack of access, lack of trust, and fear or repercussions that may prevent first responders from seeking traditional mental health care.

Communications between a patient and a health care practitioner are confidential under doctor-patient or psychotherapist-patient privilege unless such confidentiality is waived. Moreover, Florida law recognizes the right to confidentiality for peer support communications between a first responder and a first responder peer. Section 111.09, F.S., defines the term “first responder” to include a:

- Law enforcement officer;
- Firefighter;
- Emergency medical technician;
- Paramedic; or
- 911 public safety telecommunicator.

Under current law, a first responder peer is a person who:

- Is not a healthcare practitioner;
- Has experience working as or with a first responder; and
- Has been designated by the first responder’s employing agency or affiliated organization to provide peer support and has received specified training to deliver such support.

Under current law, peer support communications are confidential and may not be divulged or testified to in a civil, criminal, administrative, or disciplinary proceeding unless a specific statutory exemption applies.

CS/HB 1415 amends s. 111.09, F.S., to include correctional officers and correctional probation officers as “first responders” for the purpose of peer support communications. As such, correctional officers and correctional probation officers participating in peer support would receive the same benefit of confidentiality with respect to peer support communications as law enforcement officers, firefighters, and other statutorily-defined first responders.

The bill has an effective date of October 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

First Responders

Pursuant to section 112.1815, F.S., a “first responder” means a:

- Law enforcement officer (LEO);¹
- Firefighter;²
- Emergency medical technician (EMT)³ or paramedic;⁴ or
- 911 public safety communicator.⁵

A volunteer law enforcement officer, firefighter, EMT, or paramedic engaged by the state or a local government is also considered a first responder.

In 2019, there were 47,500 suicide fatalities in the United States and an estimated 1.4 million suicide attempts.⁶ First responders may be at an elevated risk for suicide because of the environments in which they work, their culture, and their occupational and personal stress.⁷ First responders are often exposed to incidents of death and destruction that can result in the development of behavioral health conditions, such as post-traumatic stress disorder (PTSD), depression, and suicide.⁸ Approximately 30 percent of first responders develop behavioral health conditions as compared to 20 percent of adults in the general population.⁹ A study by the Ruderman Family Foundation revealed that 35 percent of police officers have suffered from PTSD and 46.8 percent of firefighters have experienced suicidal thoughts.¹⁰ Further, a 2015 survey of 4,000 first responders found that 6.6 percent had attempted suicide, which is

¹ “Law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01. S. 943.10(1), F.S.

² “Firefighter” means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division under s. 633.408. S. 633.102(9), F.S.

³ “Emergency medical technician” means a person who is certified by the department to perform basic life support. S. 401.24(12), F.S.

⁴ “Paramedic” means a person who is certified by the department to perform basic and advanced life support. S. 401.24(18), F.S.

⁵ “911 public safety telecommunicator” means a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls; dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency; providing real-time information from federal, state, and local crime databases; or supervising or serving as the command officer to a person or persons having such duties and responsibilities. However, the term does not include administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel. S. 401.465(1)(a), F.S.

⁶ Hope M. Tiesman, PhD, et. Al., *Suicides Among First Responders: A Call to Action*, The Centers for Disease Control and Prevention (April 6, 2021), <https://blogs.cdc.gov/niosh-science-blog/2021/04/06/suicides-first-responders/> (last visited Jan. 26, 2024).

⁷ *Id.*

⁸ Miriam Heyman, Jeff Dill & Robert Douglas, *The Ruderman White Paper on Mental Health and Suicide of First Responders*, RUDERMAN FAMILY FOUNDATION 7, 9 (2018), https://issuu.com/rudermanfoundation/docs/first_responder_white_paper_final_ac270d530f8bfb (last visited Jan. 26, 2024) and SAMHSA Disaster Technical Assistance Center Supplemental Research Bulletin, *First Responders: Behavioral Health Concerns, Emergency Response, and Trauma* (May 2018), <https://www.samhsa.gov/sites/default/files/dtac/supplementalresearchbulletin-firstresponders-may2018.pdf> (last visited Jan. 26, 2024).

⁹ SAMHSA Disaster Technical Assistance Center Supplemental Research Bulletin, *First Responders: Behavioral Health Concerns, Emergency Response, and Trauma* (May 2018), <https://www.samhsa.gov/sites/default/files/dtac/supplementalresearchbulletin-firstresponders-may2018.pdf> (last visited Jan. 26, 2024).

¹⁰ *Id.* note 8.

more than 10 times the rate in the general population.¹¹ First responders are more likely to die by suicide than in the line of duty, according to the Firefighter Behavioral Health Alliance.¹²

First Responder Peer

Pursuant to s. 111.09, F.S., confidentiality of peer support communications applies only to communications with a first responder peer. Under Florida law, a first responder peer cannot be a health care practitioner. He or she must have experience working as or with a first responder regarding any physical or emotional conditions or issues associated with the first responder's employment and must be designated by the first responder's employing agency to provide peer support.

Peer Support

"Peer support" means the provision of physical, moral, or emotional support to a first responder by a first responder peer for the purpose of addressing physical or emotional conditions or other issues associated with being a first responder.¹³ Peer support communication includes any oral, written, or electronic communication made with a mutual expectation of confidentiality while a first responder peer is providing peer support in his or her official capacity.¹⁴

Traditional peer support services include social supports, such as mentoring, training, peer-led support groups, and assistance completing everyday tasks.¹⁵ Florida law recognizes confidentiality in peer support communications, which include written, oral, or electronic communications between a first responder and a first responder peer. Peers are not health care practitioners, but their support extends the reach of treatment beyond the clinical setting into the everyday environment of those seeking a successful, sustainable recovery process from mental health issues.¹⁶

A survey by the Journal of Emergency Medical Services revealed that first responders were less likely to contemplate suicide when they felt supported and encouraged at work.¹⁷ One study showed that while some firefighters reported positive experiences with professional mental health help, others felt more distressed after such intervention. Alternatively, these firefighters reported benefits from peer support, such as bonding with their fire crew after negative incidents, which can reduce the stigma, scheduling difficulties, lack of access, lack of trust, and fear or repercussions that may prevent first responders from seeking mental health care.¹⁸

Confidentiality

Generally, communications between a patient and a health care practitioner or provider of clinical, counseling or psychotherapy services are confidential.¹⁹ The privilege of confidentiality may only be waived under certain circumstances, including by agreement of the patient or if the patient has communicated threat to cause serious bodily harm to a specific person.²⁰ Under current law, a first responder is prohibited from divulging information from or testifying about a peer support

¹¹ Wes Venteicher, *Increasing suicide rates among first responders spark concerns*, FIRERESCUE NEWS, (Mar. 19, 2017), <https://www.firerescue1.com/fire-ems/articles/222673018-Increasing-suicide-rates-among-first-responders-spark-concern/> (last visited Jan. 26, 2024).

¹² Heyman, Dill & Douglas, *supra* note 74, at 19.

¹³ S. 111.09(1)(d), F.S.

¹⁴ S. 111.09(1)(e), F.S.

¹⁵ *Id.*

¹⁶ Substance Abuse and Mental Health Services Administration, *Peers*, <https://www.samhsa.gov/brss-tacs/recovery-support-tools/peers> (last visited Jan. 26, 2024)

¹⁷ Journal of Emergency Medical Services, *Survey Reveals Alarming Rates of EMS Provider Stress and Thoughts of Suicide*, (Sept. 28, 2015), <https://www.jems.com/2015/09/28/survey-reveals-alarming-rates-of-ems-provider-stress-and-thoughts-of-suicide/> (last visited Jan. 26, 2024).

¹⁸ Substance Abuse and Mental Health Services Administration, *First Responders: Behavioral Health Concerns, Emergency Response, and Trauma*, DISASTER TECHNICAL ASSISTANCE CENTER SUPPLEMENTAL RESEARCH BULLETIN (May 2019), 10, 12, <https://www.samhsa.gov/sites/default/files/dtac/supplementalresearchbulletin-firstresponders-may2018.pdf> (last visited Jan. 26, 2024).

¹⁹ S. 491.0147, F.S.

²⁰ *Id.*

communication in a civil, criminal, administrative, or disciplinary hearing.²¹ However, s. 111.09 provides limited exceptions to the confidentiality of peer support communications, including:

- When the person providing peer-to-peer support is a defendant in a proceeding arising from a complaint filed by the first responder and information divulged is limited to the scope of the proceeding.
- When the first responder agrees, in writing, to allow the peer to divulge the information or testify to the information related to the peer support.
- When, based on the peer support communications, the peer suspects that the first responder committed or intends to commit a criminal act, or if there are facts or circumstances that would lead a person to fear for the safety of the first responder, another person, or society.
 - However, under this exception, the information may only be divulged to potential victims and law enforcement or other appropriate authorities.²²

Pursuant to s. 111.09(3), F.S., current law does not limit the disclosure, discovery, or admissibility of information that is obtained by a peer from a source other than a first responder through a peer support communication.

Correctional Officer and Correctional Probation Officer

Pursuant to s. 943.10(2), F.S., a “correctional officer” is defined as any person who is appointed or employed full time by the state or any political subdivision of the state, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution.²³ A correctional officer does not include any secretarial, clerical, or professionally trained personnel.

Under current law, a “correctional probation officer” means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community.²⁴ A correctional probation officer includes any supervisory personnel whose duties include the supervision, training, and guidance of correctional probation officers. However, the definition does not include management and administrative personnel.²⁵

Effect of Proposed Changes

CS/HB 1415 amends s. 111.09, F.S., to expand the privilege of confidentiality of peer support communications to correctional officers as defined in s. 943.10(2), F.S., and correctional probation officers as defined in s. 943.10(3), F.S.

As such, correctional officers and correctional probation officers participating in peer support would receive the same benefit of confidentiality with respect to peer support communications as law enforcement officers, firefighters, and other statutorily-defined first responders.

The bill has an effective date of October 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 111.09(1)(b), F.S., relating to peer support for first responders.

Section 2: Provides an effective date.

²¹ S. 111.09(2), F.S.

²² S. 111.09(2), F.S.

²³ S. 943.10(2), F.S.

²⁴ S. 943.10(3), F.S.

²⁵ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute modified the effective date of the bill to be October 1, 2024.

This analysis is drafted as to the committee substitute as passed by the Civil Justice Subcommittee.