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H.B. 545  
134<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Reported by House Civil Justice

**Primary Sponsors:** Reps. Abrams and Baldrige

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### SUMMARY

- Prohibits, generally, a peer support team member from testifying concerning either a communication received from an individual receiving peer support services from the team member or the member's advice to the individual.
- Lists the circumstances in which this testimonial privilege does not apply.
- Requires an employer, organization, or advisor appointed by an employer or organization to create and maintain a roster identifying the employer's or organization's peer support team members and whether each member satisfies education requirements necessary for the testimonial privilege to apply.

### DETAILED ANALYSIS

#### Privileged testimonial communications

The bill prohibits, subject to the exceptions listed below, a peer support team member from testifying concerning (1) a communication received from an individual who receives peer support services from the team member or (2) the team member's advice to the individual.<sup>1</sup>

For purposes of the bill, "peer support services" means consultation, risk assessment, referral, or on-site intervention services provided by a peer support team member to an individual experiencing psychological or physical symptoms caused by exposure to acute or chronic high stress incidents in the course of the individual's employment. "Peer support services" include both of the following:

- Providing knowledge and experience or emotional, social, or practical support to peers;

<sup>1</sup> R.C. 2317.023(B).

- Helping a peer navigate available resources, including the mental health system.

A “peer support team member” is an individual who satisfies all of the following:

- The individual is (1) a peace officer, firefighter, emergency medical worker, or corrections officer, (2) a dispatcher for peace officers, firefighters, or emergency medical workers, (3) a civilian employee of an entity that employs peace officers, firefighters, emergency medical workers, or corrections officers, or (4) a retired peace officer, firefighter, emergency medical worker, corrections officer, or dispatcher acting with the approval of the retiree’s former employer or the approval of the employer appointing the peer support team;
- The individual has received no less than 16 hours of basic peer support training;
- The individual provides peer support services to individuals with similar life experiences as part of an organized group appointed to provide peer support services by an employer, a union, or a charitable organization consisting of current or former peace officers, firefighters, emergency medical workers, or dispatchers (a “peer support team”).<sup>2</sup>

To receive the testimonial privilege, a peer support team member must complete no less than eight hours of basic peer support training every two years. For the privilege to apply to a communication made at the scene of and immediately after an acute high stress incident, the team member must have provided support services at the request of the recipient and at the direction of the employer or organization that appointed the peer support team.

An employer or organization that appoints a peer support team may designate any of the following individuals as an advisor to ensure team members are appropriately trained and providing proper services:

- A licensed physician, including a physician who has satisfactorily completed a residency training program in psychiatry;
- A licensed psychologist;
- A clinical nurse specialist or certified nurse practitioner who holds a psychiatric-mental health credential issued by the American Nurses Credentialing Center or a successor organization;
- A licensed professional clinical counselor or licensed professional counselor.<sup>3</sup>

## **Exceptions to privileged communications**

The testimonial privilege described above does not apply if any of the following are true:

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<sup>2</sup> R.C. 2317.023(A).

<sup>3</sup> R.C. 2317.023(E), (F), and (G).

- The communication or advice indicates clear and present danger to the individual who receives peer support services or to other persons (indications of past or present abuse or neglect of a child constitute a clear and present danger);
- The individual who received peer support services gives express consent to the testimony;
- If the individual who received peer support services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent;
- The individual who received peer support services voluntarily testifies, in which case the peer support team member may be compelled to testify on the same subject;
- The court privately reviews the information communicated by the individual who received peer support services and determines that it is not germane to the relationship between the individual and the peer support team member;
- The communication or advice pertains or is related to any criminal act.<sup>4</sup>

## **Member roster**

The bill requires an employer or organization that appoints a peer support team, or a designated advisor, to keep a roster of the team's members. The roster must contain the following information:

- The first and last name of each peer support team member providing services at the time the roster is created;
- Whether the member is in compliance with the peer support training requirements necessary for the testimonial privilege established by the bill to apply.

The employer, organization, or advisor must update the roster on a regular basis. The roster may not include the address, telephone number, or other contact information for a team member.

The roster is not a public record under the Public Records Law.<sup>5</sup> However, an employer, organization, or advisor must make the roster available when requested by a prosecutor, investigator, or other individual who is legally allowed or required to determine whether a team member is prohibited from testifying in any proceeding to which the privilege established by the bill applies.<sup>6</sup>

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<sup>4</sup> R.C. 2317.023(C) and (D), with conforming change in R.C. 4735.05.

<sup>5</sup> R.C. 149.43, not in the bill.

<sup>6</sup> R.C. 4113.42.

## Additional definitions

The bill also defines the following terms:

- “Corrections officer” means a person employed by a public or private place used for the confinement of a person charged with or convicted of any crime in Ohio or another state or under federal law or alleged or found to be a delinquent child or unruly child in Ohio or another state or under federal law;
- “Emergency medical worker” means a paid or volunteer first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Ohio law;
- “Firefighter” means a paid or volunteer firefighter of a lawfully constituted fire department;
- “Peace officer” is a person who has arrest powers under the Arrest, Citation, and Disposition Alternatives Law.<sup>7</sup>

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## HISTORY

Action	Date
Introduced	01-24-22
Reported, H. Civil Justice	05-11-22

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<sup>7</sup> R.C. 2317.023(A), by reference to R.C. 2935.01, not in the bill.