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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

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Office

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

## Final Analysis

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

**Effective date:** April 6, 2023

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UPDATED VERSION\*

### SUMMARY

- Prohibits 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 the privilege does not apply.
- Requires an employer, organization, or peer support team advisor to keep a roster identifying the employer's or organization's peer support team members and whether each team member satisfies the education requirements necessary for the testimonial privilege to apply.

### DETAILED ANALYSIS

#### Privileged testimonial communications

The act prohibits, subject to the exceptions listed below, a peer support team member from testifying concerning either of the following:

- A communication received from an individual who receives peer support services from the team member;
- The team member's advice to the individual.<sup>1</sup>

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\* This version updates the effective date.

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

## Peer support services

“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;
- Helping a peer navigate available resources, including the mental health system.<sup>2</sup>

## Peer support team members

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 that must include certain topics discussed below.
- 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>3</sup>

## Basic peer support training

The basic peer support training that an individual must complete to be considered a peer support team member must include:

- An introduction to peer support services and basic peer support skills;
- Understanding and identifying the risk factors of mental health problems for the team member’s peers;
- Understanding confidentiality and privacy for privileged communications;
- Identifying local mental health support resources; and

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

<sup>3</sup> R.C. 2317.023(A).

- Understanding the importance of engaged communication, listening, and conflict resolution in the context of providing peer support services.

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.<sup>4</sup>

### **Advisors to peer support teams**

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 are providing proper peer support 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;
- A licensed independent social worker or licensed social worker.<sup>5</sup>

### **Exceptions to privileged communications**

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

- 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 child neglect constitute a clear and present danger).
- The individual who received peer support services expressly consents to the testimony.
- If the individual who received peer support services is deceased, the surviving spouse or the executor or administrator of the deceased individual's estate expressly consents.
- 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.

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<sup>4</sup> R.C. 2317.023(E) and (H).

<sup>5</sup> R.C. 2317.023(G).

The privilege does not apply to a communication made at the scene of and immediately after an incident that involves a substantial risk of serious physical harm to persons, serious physical harm to persons, or the loss of human life unless the team member provided peer support services at the recipient's request and at the direction of the employer or organization that appointed the peer support team.<sup>6</sup>

## Member roster

An employer or organization that appoints a peer support team, or a designated advisor to the team, must keep a roster of the team members and identify both of the following in the roster:

- 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 to apply.

The employer, organization, or advisor must update the roster on a regular basis. The roster cannot include a team member's address, telephone number, or other contact information. The roster is not a public record under the Public Records Law.<sup>7</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 act's testimonial privilege applies.<sup>8</sup>

## Additional definitions

The act 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 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.

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<sup>6</sup> R.C. 2317.023(C), (D), and (F), with conforming change in R.C. 4735.05.

<sup>7</sup> R.C. 149.43, not in the act.

<sup>8</sup> R.C. 4113.42.

- “Peace officer” is a person who has arrest powers under the Arrest, Citation, and Disposition Alternatives Law.<sup>9</sup>

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## HISTORY

Action	Date
Introduced	01-24-22
Reported, H. Civil Justice	05-11-22
Passed House (89-0)	05-18-22
Reported, S. Judiciary	12-14-22
Passed Senate (32-0)	12-14-22
House concurred in Senate amendments (87-0)	12-14-22

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<sup>9</sup> R.C. 2317.023(A), by reference to R.C. 2935.01, not in the act.