

**As Reported by the House Civil Justice Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. H. B. No. 545**

**Representatives Abrams, Baldrige**

**Cosponsors: Representatives LaRe, Seitz, Miller, K., Young, T., Jones, White,  
Ghanbari, Gross, Richardson, Miller, A., Miller, J.**

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**A BILL**

To amend section 4735.05 and to enact sections 1  
2317.023 and 4113.42 of the Revised Code to 2  
generally allow for privileged testimonial 3  
communications between a peer support team 4  
member and an individual receiving peer support 5  
services or advice from the team member. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 4735.05 be amended and sections 7  
2317.023 and 4113.42 of the Revised Code be enacted to read as 8  
follows: 9

**Sec. 2317.023.** (A) As used in this section: 10

(1) "Corrections officer" means a person employed by a 11  
public or private place used for the confinement of a person 12  
charged with or convicted of any crime in this state or another 13  
state or under the laws of the United States or alleged or found 14  
to be a delinquent child or unruly child in this state or 15  
another state or under the laws of the United States. 16

(2) "Emergency medical worker" means a first responder, 17

emergency medical technician-basic, emergency medical 18  
technician-intermediate, or emergency medical technician- 19  
paramedic, certified under Chapter 4765. of the Revised Code, 20  
whether paid or volunteer. 21

(3) "Firefighter" means a firefighter, whether paid or 22  
volunteer, of a lawfully constituted fire department. 23

(4) "Peace officer" has the same meaning as in section 24  
2935.01 of the Revised Code. 25

(5) "Peer support services" means consultation, risk 26  
assessment, referral, or on-site intervention services provided 27  
by a peer support team member to an individual experiencing 28  
psychological or physical symptoms caused by exposure to acute 29  
or chronic high stress incidents in the course of the 30  
individual's employment. "Peer support services" includes both 31  
of the following: 32

(a) Providing knowledge and experience or emotional, 33  
social, or practical support to peers; 34

(b) Helping a peer navigate available resources, including 35  
the mental health system. 36

(6) "Peer support team member" means an individual who 37  
satisfies all of the following: 38

(a) The individual is one of the following: 39

(i) A peace officer, firefighter, emergency medical 40  
worker, or corrections officer; 41

(ii) A dispatcher for peace officers, firefighters, or 42  
emergency medical workers; 43

(iii) A civilian employee of an entity that employs peace 44

officers, firefighters, emergency medical workers, or 45  
corrections officers; 46

(iv) A retired peace officer, firefighter, emergency 47  
medical worker, or corrections officer acting with the approval 48  
of the retired employee's former employer or the approval of the 49  
employer appointing the peer support team; 50

(v) A retired dispatcher for peace officers, firefighters, 51  
or emergency medical workers acting with the approval of the 52  
retired dispatcher's former employer or the approval of the 53  
employer appointing the peer support team. 54

(b) The individual has received not less than sixteen 55  
hours of basic peer support training. 56

(c) The individual, as part of a peer support team, 57  
provides peer support services to individuals with similar life 58  
experiences. 59

(7) "Peer support team" means an organized group that has 60  
been appointed by any of the following entities to provide peer 61  
support services to an employee or member: 62

(a) An employer; 63

(b) A labor organization as defined in section 3517.01 of 64  
the Revised Code; 65

(c) A charitable organization consisting of current or 66  
former peace officers, firefighters, emergency medical workers, 67  
or dispatchers of peace officers, firefighters, or emergency 68  
medical workers. 69

(B) Except as provided in division (C) of this section, a 70  
peer support team member shall not testify concerning either of 71  
the following: 72

(1) A communication received from an individual who 73  
receives peer support services from the peer support team 74  
member; 75

(2) The peer support team member's advice to the 76  
individual. 77

(C) The testimonial privilege established under division 78  
(B) of this section does not apply if any of the following are 79  
true: 80

(1) The communication or advice indicates clear and 81  
present danger to the individual who receives peer support 82  
services or to other persons. 83

(2) The individual who received peer support services 84  
expressly consents to the testimony. 85

(3) If the individual who received peer support services 86  
is deceased, the surviving spouse or the executor or 87  
administrator of the estate of the deceased individual expressly 88  
consents. 89

(4) The individual who received peer support services 90  
voluntarily testifies, in which case the peer support team 91  
member may be compelled to testify on the same subject. 92

(5) The court in camera determines that the information 93  
communicated by the individual who received peer support 94  
services is not germane to the relationship between the 95  
individual and the peer support team member. 96

(6) The communication or advice pertains or is related to 97  
any criminal act. 98

(D) For purposes of division (C) (1) of this section, 99  
indications of past or present abuse or neglect of a child 100

constitute a clear and present danger. 101

(E) To receive the testimonial privilege established under 102  
division (B) of this section, a peer support team member must 103  
complete not less than eight hours of basic peer support 104  
training every two years. 105

(F) For the testimonial privilege established under 106  
division (B) of this section to apply to a communication made at 107  
the scene of and immediately after an acute high stress 108  
incident, the peer support team member must have provided the 109  
peer support services at the request of the recipient and at the 110  
direction of the appointing entity listed in division (A) (7) of 111  
this section. 112

(G) An employer or organization that appoints a peer 113  
support team may designate any of the following individuals as 114  
an advisor to ensure team members are appropriately trained and 115  
are providing proper peer support services: 116

(1) An individual licensed to practice medicine and 117  
surgery or osteopathic medicine and surgery by the state medical 118  
board, including such an individual who has satisfactorily 119  
completed a residency training program in psychiatry; 120

(2) An individual licensed under Chapter 4732. of the 121  
Revised Code to practice psychology; 122

(3) A clinical nurse specialist as defined in section 123  
4723.01 of the Revised Code who holds a psychiatric-mental 124  
health credential issued by the American nurses credentialing 125  
center or a successor organization; 126

(4) A certified nurse practitioner as defined in section 127  
4723.01 of the Revised Code who holds a psychiatric-mental 128  
health credential issued by the American nurses credentialing 129

center or a successor organization; 130

(5) A licensed professional clinical counselor or licensed 131  
professional counselor authorized to practice under Chapter 132  
4757. of the Revised Code. 133

**Sec. 4113.42.** (A) As used in this section, "peer support 134  
team" and "peer support team member" have the same meanings as 135  
in section 2317.023 of the Revised Code. 136

(B) An employer or organization that appoints a peer 137  
support team, or an advisor designated by an employer or 138  
organization under division (F) of section 2317.023 of the 139  
Revised Code, shall keep a roster of the peer support team 140  
members that make up each peer support team maintained by the 141  
employer or organization. The employer, organization, or advisor 142  
shall do both of the following in the roster: 143

(1) Identify each peer support team member providing 144  
services at the time the roster is created by first and last 145  
name; 146

(2) Identify whether the member is in compliance with the 147  
peer support training requirements necessary for the testimonial 148  
privilege described in section 2317.023 of the Revised Code. 149

(C) The roster shall not include the address, telephone 150  
number, or other contact information for a team member. The 151  
employer, organization, or advisor shall update the roster on a 152  
regular basis. 153

(D) The roster required by this section is not a public 154  
record under section 149.43 of the Revised Code. However, the 155  
employer, organization, or advisor shall make the roster 156  
available at the request of a prosecutor, investigator, or any 157  
other individual who has a legal right or duty to determine 158

whether a peer support team member is prohibited from testifying 159  
in any proceeding to which section 2317.023 of the Revised Code 160  
applies. 161

**Sec. 4735.05.** (A) The Ohio real estate commission is a 162  
part of the department of commerce for administrative purposes. 163  
The director of commerce is ex officio the executive officer of 164  
the commission, or the director may designate any employee of 165  
the department as superintendent of real estate and professional 166  
licensing to act as executive officer of the commission. 167

The commission and the real estate appraiser board created 168  
pursuant to section 4763.02 of the Revised Code shall each 169  
submit to the director a list of three persons whom the 170  
commission and the board consider qualified to be superintendent 171  
within sixty days after the office of superintendent becomes 172  
vacant. The director shall appoint a superintendent from the 173  
lists submitted by the commission and the board, and the 174  
superintendent shall serve at the pleasure of the director. 175

(B) The superintendent, except as otherwise provided, 176  
shall do all of the following in regard to this chapter: 177

(1) Administer this chapter; 178

(2) Issue all orders necessary to implement this chapter; 179

(3) Investigate complaints concerning the violation of 180  
this chapter or the conduct of any licensee; 181

(4) Establish and maintain an investigation and audit 182  
section to investigate complaints and conduct inspections, 183  
audits, and other inquiries as in the judgment of the 184  
superintendent are appropriate to enforce this chapter. The 185  
investigators or auditors have the right to review and audit the 186  
business records of licensees and continuing education course 187

providers during normal business hours.	188
(5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47, 4735.052, or 4735.18 of the Revised Code;	189 190 191
(6) Administer the real estate recovery fund.	192
(C) The superintendent may do all of the following:	193
(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;	194 195 196
(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.	197 198 199 200 201
(3) Recommend the appointment of an ancillary trustee who is qualified as determined by the superintendent in any of the following instances:	202 203 204
(a) Upon the death of a licensed broker, if there is no other licensed broker within the brokerage, upon application by any interested party, subject to the approval by the appropriate probate court, to conclude the business transactions of the deceased broker;	205 206 207 208 209
(b) Upon the revocation of a licensed broker, if there is no other licensed broker within the brokerage, to conclude the business transactions of the revoked broker;	210 211 212
(c) Upon the incapacitation, suspension, or incarceration of a licensed broker, if there is no other licensed broker within the brokerage, to continue the business transactions of	213 214 215

the brokerage for a period of time not to exceed the period of 216  
incapacitation, suspension, or incarceration. 217

(4) In conjunction with the enforcement of this chapter, 218  
when the superintendent of real estate has reasonable cause to 219  
believe that an applicant or licensee has committed a criminal 220  
offense, the superintendent of real estate may request the 221  
superintendent of the bureau of criminal identification and 222  
investigation to conduct a criminal records check of the 223  
applicant or licensee. The superintendent of the bureau of 224  
criminal identification and investigation shall obtain 225  
information from the federal bureau of investigation as part of 226  
the criminal records check of the applicant or licensee. The 227  
superintendent of real estate may assess the applicant or 228  
licensee a fee equal to the fee assessed for the criminal 229  
records check. 230

(5) In conjunction with the enforcement of this chapter, 231  
issue advisory letters in lieu of initiating disciplinary action 232  
under section 4735.051 or 4735.052 of the Revised Code or 233  
issuing a citation under section 4735.16 or 4735.181 of the 234  
Revised Code. 235

(D) All information that is obtained by investigators and 236  
auditors performing investigations or conducting inspections, 237  
audits, and other inquiries pursuant to division (B) (4) of this 238  
section, from licensees, complainants, or other persons, and all 239  
reports, documents, and other work products that arise from that 240  
information and that are prepared by the investigators, 241  
auditors, or other personnel of the department, shall be held in 242  
confidence by the superintendent, the investigators and 243  
auditors, and other personnel of the department. Notwithstanding 244  
~~division (D) of section 2317.023~~ any provision of the Revised 245

Code to the contrary, all information obtained by investigators 246  
or auditors from an informal mediation meeting held pursuant to 247  
section 4735.051 of the Revised Code, including but not limited 248  
to the agreement to mediate and the accommodation agreement, 249  
shall be held in confidence by the superintendent, 250  
investigators, auditors, and other personnel of the department. 251

(E) This section does not prevent the division of real 252  
estate and professional licensing from releasing information 253  
relating to licensees to the superintendent of financial 254  
institutions for purposes relating to the administration of 255  
Chapter 1322. of the Revised Code, to the superintendent of 256  
insurance for purposes relating to the administration of Chapter 257  
3953. of the Revised Code, to the attorney general, or to local 258  
law enforcement agencies and local prosecutors. Information 259  
released by the division pursuant to this section remains 260  
confidential. 261

**Section 2.** That existing section 4735.05 of the Revised 262  
Code is hereby repealed. 263