



State of Wisconsin
2023 - 2024 LEGISLATURE

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2023 SENATE BILL 621

November 7, 2023 - Introduced by Senators JAMES, BALLWEG, JACQUE, FELZKOWSKI and NASS, cosponsored by Representatives KITCHENS, DITTRICH, DONOVAN, MICHALSKI, O'CONNOR, SNYDER, WICHGERS and GOEBEN. Referred to Committee on Mental Health, Substance Abuse Prevention, Children and Families.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT to create** 165.875 and 905.095 of the statutes; **relating to:** public safety
- 2 peer counseling and privilege for peer support and critical incident stress
- 3 management services communications and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Justice to establish and implement a program under which a law enforcement agency, a tribal law enforcement agency, a fire protection or emergency medical service agency, or any other agency that employs law enforcement officers, tribal law enforcement officers, correctional officers, jail officers, juvenile detention officers, fire fighters, dispatchers, emergency medical responders, emergency medical services practitioners, public safety personnel, or ambulance service provider personnel, may establish peer support teams and critical incident stress management (CISM) services teams.

The bill requires the DOJ to organize a program of training required for membership on a peer support team or CISM team to provide peer support services or CISM services. The bill requires the Law Enforcement Standards Board (LESB) to coordinate with the Department of Health Services, the state fire marshal, and any other relevant agency or entity it determines appropriate to advise LESB in establishment of the curriculum.

Under the bill, if an agency establishes a peer support team or a CISM services team, the agency must develop written guidelines for the team and its members. Under the bill, individuals must be officially designated by an agency head or the agency head's designee to be a peer support team member or a CISM services team

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member and must successfully complete approved training. Except for actions for medical malpractice, the bill provides a liability exemption for peer support teams and team members and CISM services teams and team members providing peer support or CISM services.

The bill establishes certain protections for communications with peer support team members and CISM services team members. Under the bill, a communication is defined as an oral statement, written statement, note, record, report, or document made during or arising out of a meeting between a recipient of peer support services or CISM services and a peer support team member or a CISM services team member. The bill provides that, with certain exceptions, a peer support team member or a CISM services team member may refuse to disclose communications made by a person receiving peer support services or CISM services, including individual or group support sessions, if the peer support team member or CISM services team member is acting in the capacity of a peer support team member or CISM services team member and is functioning within the team member's written guidelines. Communications made by a person receiving or providing peer support or CISM services are not subject to public inspection, copying, or disclosure. The protections under the bill do not apply if the peer support team member or CISM services team member was a witness or a party to the incident that prompted the delivery of peer support services or CISM services. The bill also provides that no privilege exists for a communication to a peer support team member or CISM services team member that is any of the following: 1) evidence of actual or suspected child neglect or abuse; 2) evidence that a person receiving peer support services or CISM services is a clear and immediate danger to himself or herself or others; or 3) evidence that the person receiving services has committed a crime, plans to commit a crime, or intends to conceal a crime. Under the bill, a person receiving services who is entitled to claim the privilege for communications relating to those services may waive the privilege in writing.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 165.875 of the statutes is created to read:
- 2 **165.875 Public safety peer counseling. (1) DEFINITIONS.** In this section:
- 3 (a) "Agency" means a law enforcement agency, a tribal law enforcement agency,
- 4 a fire protection or emergency medical service agency, or any other agency that
- 5 employs law enforcement officers, tribal law enforcement officers, correctional
- 6 officers, jail officers, juvenile detention officers, fire fighters, dispatchers, emergency

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1 medical responders, emergency medical services practitioners, public safety
2 personnel, or ambulance service provider personnel.

3 (b) “Ambulance service provider” has the meaning given in s. 256.01 (3).

4 (c) “Communication” means an oral statement, written statement, note, record,
5 report, or document made during or arising out of a meeting between a recipient of
6 peer support services or critical incident stress management services and a peer
7 support team member or a critical incident stress management services team
8 member.

9 (d) “Correctional officer” has the meaning given in s. 301.28 (1).

10 (e) “Critical incident” means an actual or perceived event or situation that
11 involves a crisis, disaster, trauma, or emergency.

12 (f) “Critical incident stress management services” means services provided by
13 a critical incident stress management services team or a critical incident stress
14 management services team member to any law enforcement officer, tribal law
15 enforcement officer, correctional officer, jail officer, juvenile detention officer, fire
16 fighter, dispatcher, emergency medical responder, emergency medical services
17 practitioner, public safety personnel, ambulance service provider personnel, or
18 civilian employee or volunteer member of a law enforcement agency affected by a
19 critical incident and designed to assist the individual affected by a critical incident
20 to cope with critical incident stress or to mitigate reactions to critical incident stress.

21 “Critical incident stress management services” includes any of the following:

- 22 1. Critical incident stress defusings.
- 23 2. Critical incident stress debriefings.
- 24 3. On-scene support services.
- 25 4. One-on-one support services.

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1 (g) "Critical incident stress management services team member" means any
2 law enforcement officer, tribal law enforcement officer, correctional officer, jail
3 officer, juvenile detention officer, fire fighter, dispatcher, emergency medical
4 responder, emergency medical services practitioner, public safety personnel,
5 ambulance service provider personnel, civilian employee or volunteer member of a
6 law enforcement agency, or other person who has been trained in critical incident
7 stress management services and officially designated by the agency head or the
8 agency head's designee to be a member of the agency's critical incident stress
9 management services team.

10 (h) "Emergency medical responder" has the meaning given in s. 256.01 (4p).

11 (i) "Emergency medical services practitioner" has the meaning given in s.
12 256.01 (5).

13 (j) "Fire fighter" means any person employed by the state or a political
14 subdivision as a member or officer of a fire department or a member of a volunteer
15 fire department, including the state fire marshal and deputies.

16 (k) "Jail officer" has the meaning given in s. 165.85 (2) (bn).

17 (L) "Juvenile detention facility" has the meaning given in s. 48.02 (10r).

18 (m) "Juvenile detention officer" has the meaning given in s. 165.85 (2) (bt).

19 (n) "Law enforcement agency" means a governmental unit of one or more
20 persons employed full time by this state or a political subdivision of this state for the
21 purpose of preventing and detecting crime and enforcing state laws or local
22 ordinances, employees of which unit are authorized to make arrests for crimes while
23 acting within the scope of their authority.

24 (o) "Law enforcement officer" means any person employed by the state or a
25 political subdivision for the purpose of detecting and preventing crime and enforcing

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1 laws or ordinances and who is authorized to make arrests for violations of the laws
2 or ordinances the person is employed to enforce, whether that enforcement authority
3 extends to all laws or ordinances or is limited to specific laws or ordinances. “Law
4 enforcement officer” includes a person appointed as a conservation warden by the
5 department of natural resources under s. 23.10 (1).

6 (p) “Peer support services” means any debriefing, defusing, on-scene, or
7 one-on-one session provided by a peer support team member that provides
8 emotional and moral support to any law enforcement officer, tribal law enforcement
9 officer, correctional officer, jail officer, juvenile detention officer, fire fighter,
10 dispatcher, emergency medical responder, emergency medical services practitioner,
11 public safety personnel, ambulance service provider personnel, or civilian employee
12 or volunteer member of a law enforcement agency affected by stress or an incident,
13 whether personal or professional.

14 (q) “Peer support team member” means any law enforcement officer, tribal law
15 enforcement officer, jail officer, juvenile detention officer, fire fighter, dispatcher,
16 emergency medical responder, emergency medical services practitioner, public
17 safety personnel, ambulance service provider personnel, civilian employee or
18 volunteer member of a law enforcement agency, or other person who has been trained
19 in peer support services and officially designated by the agency head or the agency
20 head’s designee to be a member of the agency’s peer support team.

21 (r) “Political subdivision” has the meaning given in s. 165.85 (2) (d).

22 (s) “Public safety personnel” means an employee of a governmental entity who,
23 by virtue of the person’s job duties, provides support to peace officers, including
24 dispatchers, public safety telecommunicators, crime scene and crime laboratory
25 technicians, and criminal analysts.

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1 (t) “Trained” means a person who has successfully completed an approved peer
2 support training program or an approved critical incident stress management
3 training program.

4 (u) “Tribal law enforcement agency” has the meaning given in s. 165.83 (1) (e).

5 (v) “Tribal law enforcement officer” has the meaning given in s. 165.85 (2) (g).

6 **(2) CREATION; OPERATION.** (a) The department of justice shall establish and
7 implement a program for the establishment of peer support teams and critical
8 incident stress management services teams. The department of justice shall
9 organize a program of training as provided under s. 165.86 (2) (b) for membership on
10 a peer support team to provide peer support services and for membership on a critical
11 incident stress management services team to provide critical incident stress
12 management services. The law enforcement standards board shall establish
13 minimum curriculum standards for the training programs to provide training in a
14 manner similar to that provided for law enforcement training under s. 165.85, except
15 that the board shall coordinate with the department of health services, the state fire
16 marshal, and any other relevant agency or entity it determines appropriate to advise
17 the board in establishment of the curriculum.

18 (b) An individual may not provide peer support services unless that individual
19 successfully completes a peer support training program required for membership on
20 a peer support team. An individual may not provide critical incident stress
21 management services services unless that individual successfully completes a
22 critical incident stress management services training program required for
23 membership on a critical incident stress management services team. The board shall
24 prescribe the means for presenting evidence of fulfillment of these requirements.

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1 (c) The department of justice shall promulgate rules to implement this section,
2 including all of the following:

3 1. Procedures for establishment of a peer support team or a critical incident
4 stress management services team.

5 2. Procedures for designation of individuals to be peer support team members,
6 critical incident stress management services team members, or both.

7 (d) 1. An agency may establish a peer support team and, if a peer support team
8 is established, shall develop written guidelines for the peer support team and its peer
9 support team members.

10 2. An agency may establish a critical incident stress management services
11 team and, if a critical incident stress management services team is established, shall
12 develop written guidelines for the critical incident stress management services team
13 and its critical incident stress management services team members.

14 3. No agency may establish or maintain a peer support team or critical incident
15 stress management services team unless the agency complies with rules
16 promulgated under this section.

17 (e) In order to qualify as a peer support team member, an individual shall
18 successfully complete a peer support training program approved under this section.
19 In order to qualify as a critical incident stress management services team member,
20 an individual shall successfully complete a critical incident stress management
21 services training program approved under this section.

22 (f) Subject to par. (g), in accordance with s. 905.095, a peer support team
23 member or critical incident stress management services team member may refuse
24 to disclose communications made by a person receiving peer support services or

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1 critical incident stress management services, including individual or group support
2 sessions.

3 (g) Paragraph (f) applies only to communications made during interactions
4 conducted by a peer support team member or critical incident stress management
5 services team member who is doing all of the following:

6 1. Acting in the team member's capacity as a peer support team member or
7 critical incident stress management services team member.

8 2. Functioning within the written peer support guidelines or critical incident
9 stress management services guidelines that are in effect for the team member's
10 respective agency.

11 (h) Subject to the requirements under par. (g), communications made by a
12 person receiving or providing peer support services or critical incident stress
13 management services, including communications made during or arising out of
14 individual or group support sessions, are not open to public inspection, copying, or
15 disclosure under s. 19.35.

16 (i) This section does not apply if any of the following are true:

17 1. A peer support team member or a critical incident stress management
18 services team member was a witness or a party to the incident that prompted the
19 delivery of peer support services or critical incident stress management services.

20 2. Information received by a peer support team member or a critical incident
21 stress management services team member is indicative of actual or suspected child
22 abuse or actual or suspected child neglect.

23 3. The person receiving peer support services or critical incident stress
24 management services is a clear and immediate danger to himself or herself or others.

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1 4. Communication to a peer support team member or a critical incident stress
2 management services team member provides evidence that the person who is
3 receiving the peer support services or critical incident stress management services
4 has committed a crime, plans to commit a crime, or intends to conceal a crime.

5 **(3) LIABILITY EXEMPTION.** (a) Except as otherwise provided in par. (b), a peer
6 support team or peer support team member or a critical incident stress management
7 services team or critical incident stress management services team member
8 providing peer support services or critical incident stress management services,
9 respectively, is not liable for damages, including personal injury, wrongful death,
10 property damage, or other loss related to a peer support team member's or critical
11 incident stress management services team member's act, error, or omission in
12 performing peer support services or critical incident stress management services.

13 (b) Paragraph (a) does not apply to an action for medical malpractice.

14 **SECTION 2.** 905.095 of the statutes is created to read:

15 **905.095 Peer support and critical incident stress management**
16 **services communications. (1) DEFINITIONS.** In this section:

17 (a) "Communication" has the meaning given in s. 165.875 (1) (c).

18 (b) "Critical incident stress management services" has the meaning given in s.
19 165.875 (1) (f).

20 (c) "Critical incident stress management services team member" has the
21 meaning given under s. 165.875 (1) (g).

22 (d) "Peer support services" has the meaning given in s. 16.875 (1) (p).

23 (e) "Peer support team member" means a person who is designated as a peer
24 support team member under s. 165.875 (1) (q).

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1 **(2) GENERAL RULE OF PRIVILEGE.** A person receiving peer support services from
2 a peer support team member or a person receiving critical incident stress
3 management services from a critical incident stress management services team
4 member has a privilege during the person's life to refuse to disclose and to prevent
5 any other person from disclosing peer support communications or critical incident
6 stress management services communications, including communications made
7 during or arising out of individual or group support sessions.

8 **(3) WHO MAY CLAIM THE PRIVILEGE.** The privilege under this section may be
9 claimed by the person who received the peer support services or critical incident
10 stress management services or the guardian or conservator of the person who
11 received the peer support services or critical incident stress management services.
12 A person who was a peer support team member or critical incident stress
13 management services team member at the time of the communication is presumed
14 to have authority during the life of the person who received the peer support services
15 or critical incident stress management services to claim the privilege on behalf of the
16 person who received the peer support services or critical incident stress management
17 services.

18 **(4) EXCEPTIONS.** (a) No privilege exists under this section for any of the
19 following:

20 1. Communication to a peer support team member or critical incident stress
21 management services team member that is evidence of actual or suspected child
22 neglect or abuse.

23 2. Communication to a peer support team member or critical incident stress
24 management services team member that is evidence a person receiving peer support

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1 services or critical incident stress management services is a clear and immediate
2 danger to himself or herself or others.

3 3. Communication to a peer support team member or critical incident stress
4 management services team member that is evidence that a person who is receiving
5 the peer support services or critical incident stress management services has
6 committed a crime, plans to commit a crime, or intends to conceal a crime.

7 (b) A person receiving peer support or critical incident stress management
8 services whose communications are privileged under this section may waive the
9 privilege in writing.

10 **SECTION 3. Initial applicability.**

11 (1) The treatment of s. 905.095 first applies to a communication made to a peer
12 support team member or a critical incident stress management services team
13 member on the effective date of this subsection.

14 (END)