

ASSEMBLY BILL NO. 260—ASSEMBLYMEN ROBERTS;
HAFEN, HARDY, LEAVITT AND TOLLES

MARCH 14, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing mental health.
(BDR 4-1031)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted-material] is material to be omitted.

AN ACT relating to public employees; revising provisions relating to confidential communications made during a peer support counseling session; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes that law enforcement or public safety personnel who participate in a peer support counseling session have a privilege to refuse to disclose certain communications made during a counseling session. (NRS 49.293) Existing law also provides that such communications are confidential and may not be disclosed, unless: (1) the communication relates to certain information relating to the safety of persons or to criminal conduct; (2) the law enforcement or public safety personnel who were a party to the communication waive the confidentiality; or (3) a court of competent jurisdiction issues an order or subpoena requiring the disclosure of the communication. (NRS 49.293, 281.805) This bill removes the authorization of a court to issue an order or subpoena requiring the disclosure of confidential communications made during such a peer support counseling session.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 49.293 is hereby amended to read as follows:
49.293 1. Any law enforcement or public safety personnel who participate in a peer support counseling session and any counselor providing such counseling have a privilege to refuse to disclose, and to prevent any other person from disclosing, any confidential communications set forth in NRS 281.805 unless:



(a) The communication is any of the following:

(1) Any explicit threat of suicide;

(2) Any explicit threat of imminent and serious physical harm or death to a clearly identified or identifiable person;

(3) Any information relating to the abuse or neglect of a child, older person or vulnerable person, or any information that is required by law to be reported; or

(4) Any admission of criminal conduct; *or*

(b) The law enforcement or public safety personnel who were a party to the communication waive the confidentiality of the communication. ~~!; or~~

~~—(c) A court of competent jurisdiction issues an order or subpoena requiring the disclosure of the communication.]~~

2. As used in this section, “counselor,” “law enforcement or public safety personnel” and “peer support counseling session” have the meanings ascribed to them in NRS 281.805.

Sec. 2. NRS 281.805 is hereby amended to read as follows:

281.805 1. Any communication made between parties during a peer support counseling session is confidential and must not be disclosed by any person participating in the peer support counseling session unless:

(a) The communication is any of the following:

(1) Any explicit threat of suicide;

(2) Any explicit threat of imminent and serious physical harm or death to a clearly identified or identifiable person;

(3) Any information relating to the abuse or neglect of a child, older person or vulnerable person, or any information that is required by law to be reported; or

(4) Any admission of criminal conduct; *or*

(b) The law enforcement or public safety personnel who were a party to the communication waive the confidentiality of the communication. ~~!; or~~

~~—(c) A court of competent jurisdiction issues an order or subpoena requiring the disclosure of the communication.]~~

2. This section:

(a) Applies to all oral communications, notes, records and reports arising out of a peer support counseling session. Any notes, records or reports arising out of a peer support counseling session are not public records.

(b) Does not prohibit any communications between counselors who conduct peer support counseling sessions, or any communications between counselors and the supervisors or staff of a peer support counseling or employee assistance program. Any such communications are confidential for purposes of this section.



(c) Does not limit the discovery or introduction into evidence of any knowledge acquired or observations made by any law enforcement or public safety personnel in the scope of their employment and outside of a peer support counseling session and which is otherwise subject to discovery or introduction into evidence.

3. A person who discloses a communication pursuant to paragraph (a) ~~or~~ *or* (b) ~~or (c)~~ of subsection 1 is not liable for any error or omission in such a disclosure.

4. A law enforcement or public safety agency is not liable for any disclosure made in violation of this section by any law enforcement or public safety personnel of the agency who participate in a peer support counseling session.

5. As used in this section:

(a) "Counselor" means a person who:

(1) Has received training in peer support counseling and in providing emotional and moral support to law enforcement or public safety personnel who have been involved in or exposed to emotionally traumatic experiences in the course of their employment; and

(2) Is designated by a law enforcement agency, public safety agency or employee assistance program to provide the services described in subparagraph (1).

(b) "Employee assistance program" means a program provided by a law enforcement or public safety agency to provide counseling services to its personnel through the use of law enforcement or public safety personnel who have received special training to act as peer support counselors.

(c) "Law enforcement or public safety personnel" includes, without limitation, peace officers, sheriffs' deputies, corrections officers, probation officers, firefighters, paramedics, emergency dispatchers or any other employee or volunteer reserve member of a law enforcement or public safety agency whose duties involve emergency response or criminal investigation.

(d) "Peer support counseling session" means any counseling formally provided through a peer support program between a counselor and one or more law enforcement or public safety personnel.

Sec. 3. This act becomes effective upon passage and approval.

