

# State of Wisconsin



2023 Assembly Bill 576

Date of enactment: **March 27, 2024**

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## 2023 WISCONSIN ACT 220

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

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

**SECTION 1.** 165.875 of the statutes is created to read:

**165.875 Public safety peer counseling.** (1) DEFINITIONS. In this section:

(a) "Agency" means a law enforcement agency, a tribal law enforcement agency, a fire protection or emergency medical services agency, or any other agency or entity, including a nonprofit organization, that employs, represents, or serves 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.

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

(c) "Communication" means 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 critical incident stress management services and a peer support team member or a critical incident stress management services team member.

(d) "Correctional officer" has the meaning given in s. 301.28 (1).

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

(f) "Critical incident stress management services" means services provided by a critical incident stress management services team or a critical incident stress management services team member to any law enforcement officer, tribal law enforcement officer, correctional officer, jail officer, juvenile detention officer, fire fighter, dispatcher, emergency medical responder, emergency medical services practitioner, public safety personnel, ambulance service provider personnel, or civilian employee or volunteer member of a law enforcement agency affected by a critical incident and designed to assist the individual affected by a critical incident to cope with critical incident stress or to mitigate reactions to critical incident stress. "Critical incident stress management services" includes any of the following:

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

(g) "Critical incident stress management services team member" means any law enforcement officer, tribal law enforcement officer, correctional officer, jail officer,

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\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

juvenile detention officer, fire fighter, dispatcher, emergency medical responder, emergency medical services practitioner, public safety personnel, ambulance service provider personnel, civilian employee or volunteer member of a law enforcement agency, or other person who has been trained in critical incident stress management services and officially designated by the agency head or the agency head's designee to be a member of the agency's critical incident stress management services team.

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

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

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

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

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

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

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

(o) "Law enforcement officer" means any person employed by the state or a political subdivision for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances the person is employed to enforce, whether that enforcement authority extends to all laws or ordinances or is limited to specific laws or ordinances. "Law enforcement officer" includes a person appointed as a conservation warden by the department of natural resources under s. 23.10 (1).

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

(q) "Peer support team member" means any law enforcement officer, tribal law enforcement officer, jail officer, juvenile detention officer, fire fighter, dispatcher, emergency medical responder, emergency medical ser-

vices practitioner, public safety personnel, ambulance service provider personnel, civilian employee or volunteer member of a law enforcement agency, or other person who has been trained in peer support services and officially designated by the agency head or the agency head's designee to be a member of the agency's peer support team.

(r) "Political subdivision" has the meaning given in s. 165.85 (2) (d).

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

(t) "Trained" means a person who has successfully completed an approved peer support training program or an approved critical incident stress management training program.

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

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

(2) CREATION; OPERATION. (a) The department of justice shall establish and implement a program for the establishment of peer support teams and critical incident stress management services teams. The department of justice shall organize a program of training for membership on a peer support team to provide peer support services.

(b) In order to qualify as a peer support team member or a critical incident stress management services team member, an individual shall attend a peer support training program provided through the department of justice as described under par. (a) or, at a minimum, a training program by a credentialed health care provider who, through education, training, or experience, is qualified to provide peer support training or critical incident stress management services training. An individual may not provide peer support services or critical incident stress management services unless that individual successfully completes a peer support or critical incident stress management services training program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) **LIABILITY EXEMPTION.** (a) Except as otherwise provided in par. (b), a peer support team or peer support

team member or a critical incident stress management services team or critical incident stress management services team member providing peer support services or critical incident stress management services, respectively, is not liable for damages, including personal injury, wrongful death, property damage, or other loss related to a peer support team member's or critical incident stress management services team member's act, error, or omission in performing peer support services or critical incident stress management services.

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

**SECTION 2.** 905.095 of the statutes is created to read:  
**905.095 Peer support and critical incident stress management services communications.** (1) **DEFINITIONS.** In this section:

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

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

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

(d) "Peer support services" has the meaning given in s. 165.875 (1) (p).

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

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

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

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

1. Communication to a peer support team member or critical incident stress management services team mem-

ber that is evidence of actual or suspected child neglect or abuse.

2. Communication to a peer support team member or critical incident stress management services team member that is evidence a person receiving peer support services or critical incident stress management services is a clear and immediate danger to himself or herself or others.

3. Communication to a peer support team member or critical incident stress management services team member that is evidence that a person who is receiving the peer support services or critical incident stress management

services has committed a crime, plans to commit a crime, or intends to conceal a crime.

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

**SECTION 3. Initial applicability.**

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

