

Commission on Peace Officers' Standards and Training, Peer Support Counseling; HB 2025

HB 2025 amends law concerning law enforcement officers. Specifically, the bill amends the law concerning the authority of the Commission on Peace Officers' Standards and Training (the Commission) to suspend, condition, or revoke an officer's certification; reprimand or censure an officer; or deny certification of an officer. In an investigation that could result in such action, the bill requires the agency head or other appointing authority for the officer to provide all reports, documentation, transcripts, recordings, and other information to the Commission when requested. Five years after a revocation is effective, the bill allows an officer whose certificate has been revoked to petition the Commission to reinstate the certificate. If denied, the person can petition for reinstatement five years after the denial. Reinstatement proceedings will be conducted in accordance with the Kansas Administrative Procedure Act. The bill also removes suspended certificates from the provisions explained above, in part, concerning reinstatement of a certificate.

Further, the bill enacts provisions related to the confidentiality of communications within a "peer support counseling session" (session), which is defined as a session conducted by a peer support specialist that is called or requested in response to a critical incident or traumatic event involving the personnel of a law enforcement agency (agency) or emergency services provider (provider). "Peer support specialist" (specialist) is defined as a person who has been designated by an agency, provider, employee assistance program (EAP), or peer support team leader; is a member of a peer support team; and has received training in counseling and in providing emotional and moral support to law enforcement officers (officers) or emergency services personnel who have been involved in emotionally traumatic incidents due to their employment. The bill also defines other key terms.

The bill establishes that any communication made by a participant or specialist in a session and any oral or written information conveyed in or as the result of a session are confidential and may not be disclosed by any participant in the session. Such communication also is inadmissible in any judicial proceeding, administrative proceeding, arbitration proceeding, or other adjudicatory proceeding. Similarly, any communication relating to a confidential session made between specialists, specialists and the supervisors or staff of an EAP, or supervisors or staff of an EAP is confidential and disclosure is prohibited. These provisions apply only to sessions conducted by a specialist, and apply to all oral communications, notes, records, and reports arising out of a session. Notes, records, or reports arising out of a session will not be public records and will not be subject to the Kansas Open Records Act. This provision expires on July 1, 2020, unless reviewed and reenacted by the Legislature prior to that date.

Nothing in the bill limits the discovery or introduction into evidence of knowledge acquired by law enforcement or emergency services personnel from observation made or material or information acquired during the course of employment that otherwise is subject to discovery or introduction into evidence. Additionally, the provisions do not apply to any:

- Threat of suicide or criminal act, or information conveyed relating to such threat, made by a session participant;

- Information relating to abuse of spouses, children, or the elderly, or other information required to be reported by law;
- Admission of criminal conduct;
- Disclosure of testimony by a participant who expressly consented to such disclosure; or
- Disclosure of testimony by the surviving spouse or executor or administrator of the estate of a deceased participant who received counseling services, when such surviving spouse or executor or administrator expressly consented to such disclosure.

The bill clarifies it does not prohibit any communications between specialists who conduct sessions or between specialists and the supervisors or staff of an EAP and does not prohibit communications between an EAP and an employer regarding fitness of an employee for duty.

Finally, the bill amends the definition of “law enforcement officer” in the Code of Criminal Procedure (referenced in the definition of “law enforcement personnel” in this bill) to include “community corrections officers.”