

ASSEMBLY BILL NO. 301—ASSEMBLYMAN SPRINKLE

MARCH 15, 2017

Referred to Committee on Government Affairs

SUMMARY—Provides for the confidentiality of certain communications between parties during a peer support counseling session. (BDR 23-186)

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; providing that certain communications between parties during a peer support counseling session for law enforcement or public safety personnel are confidential and not admissible in certain proceedings; conferring upon certain law enforcement and public safety personnel a privilege to refuse to disclose those communications; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 **Section 1** of this bill provides that any communications made between parties  
2 during a peer support counseling session are confidential and may not be disclosed  
3 or admitted in any judicial, administrative, arbitration or other adjudicatory  
4 proceeding. **Section 2** of this bill creates a testimonial privilege allowing a  
5 counselor or participant in a peer support counseling session to refuse to disclose or  
6 to prevent another party from disclosing any communication made during a peer  
7 support counseling session in certain court proceedings. **Section 3** of this bill  
8 provides that any notes, records or reports of any peer support counseling session  
9 are not public records.

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

1 **Section 1.** Chapter 281 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 ***1. Any communication made between parties during a peer***  
4 ***support counseling session is confidential and, except as otherwise***



\* A B 3 0 1 \*

1 *provided in this section, must not be disclosed by any person*  
2 *participating in the peer support counseling session.*

3 2. *This section applies to all oral communications, notes,*  
4 *records and reports arising out of a peer support counseling*  
5 *session. Any notes, records or reports arising out of a peer support*  
6 *counseling session are not public records.*

7 3. *Any communication or document which is confidential*  
8 *pursuant to this section is not admissible in any judicial,*  
9 *administrative, arbitration or other adjudicatory proceeding.*

10 4. *This section does not prohibit any communications*  
11 *between counselors who conduct peer support counseling sessions,*  
12 *or any communications between counselors and the supervisors or*  
13 *staff of a peer support counseling or employee assistance program.*  
14 *Any such communications are confidential for purposes of this*  
15 *section.*

16 5. *This section does not apply to any of the following*  
17 *communications made during a peer support counseling session:*

18 (a) *Any threat of suicide;*

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

21 (c) *Any information relating to child abuse or elder abuse, or*  
22 *any information that is required by law to be reported; or*

23 (d) *Any admission of criminal conduct.*

24 6. *This section does not limit the discovery or introduction*  
25 *into evidence of any knowledge acquired or observations made by*  
26 *any law enforcement or public safety personnel in the scope of*  
27 *their employment and outside of a peer support counseling session*  
28 *and which is otherwise subject to discovery or introduction into*  
29 *evidence.*

30 7. *As used in this section:*

31 (a) *“Counselor” means a person who:*

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

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

39 (b) *“Employee assistance program” means a program*  
40 *provided by a law enforcement or public safety agency to provide*  
41 *counseling services to its personnel through the use of law*  
42 *enforcement or public safety personnel who have received special*  
43 *training to act as peer counselors.*

44 (c) *“Law enforcement or public safety personnel” includes,*  
45 *without limitation, peace officers, sheriffs’ deputies, corrections*



1 *officers, probation officers, firefighters, paramedics, emergency*  
2 *dispatchers or any other employee or volunteer reserve member of*  
3 *a law enforcement or public safety agency whose duties involve*  
4 *emergency response or criminal investigation.*

5 (d) *“Peer support counseling session” means any counseling*  
6 *formally provided through an employee assistance program*  
7 *between a counselor and one or more law enforcement or public*  
8 *safety personnel.*

9 **Sec. 2.** Chapter 49 of NRS is hereby amended by adding  
10 thereto a new section to read as follows:

11 *1. Any law enforcement or public safety personnel who*  
12 *participate in a peer support counseling session and any counselor*  
13 *providing such counseling have a privilege to refuse to disclose,*  
14 *and to prevent any other person from disclosing, any confidential*  
15 *communications set forth in section 1 of this act.*

16 *2. As used in this section, “law enforcement or public safety*  
17 *personnel” and “peer support counseling session” have the*  
18 *meanings ascribed to them in section 1 of this act.*

19 **Sec. 3.** NRS 239.010 is hereby amended to read as follows:

20 239.010 1. Except as otherwise provided in this section and  
21 NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440,  
22 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,  
23 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246,  
24 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355,  
25 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,  
26 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,  
27 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370,  
28 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,  
29 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817,  
30 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,  
31 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,  
32 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160,  
33 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651,  
34 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040,  
35 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350,  
36 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270,  
37 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,  
38 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,  
39 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,  
40 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,  
41 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,  
42 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,  
43 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,  
44 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,  
45 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420,



1 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,  
2 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,  
3 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,  
4 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,  
5 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,  
6 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,  
7 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,  
8 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,  
9 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,  
10 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,  
11 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,  
12 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,  
13 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,  
14 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,  
15 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,  
16 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,  
17 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,  
18 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,  
19 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,  
20 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,  
21 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,  
22 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,  
23 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,  
24 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,  
25 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,  
26 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,  
27 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,  
28 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,  
29 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,  
30 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,  
31 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,  
32 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,  
33 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,  
34 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,  
35 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,  
36 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,  
37 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,  
38 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,  
39 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,  
40 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,  
41 710.159, 711.600, *and section 1 of this act*, sections 35, 38 and 41  
42 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter  
43 391, Statutes of Nevada 2013 and unless otherwise declared by law  
44 to be confidential, all public books and public records of a  
45 governmental entity must be open at all times during office hours to



1 inspection by any person, and may be fully copied or an abstract or  
2 memorandum may be prepared from those public books and public  
3 records. Any such copies, abstracts or memoranda may be used to  
4 supply the general public with copies, abstracts or memoranda of the  
5 records or may be used in any other way to the advantage of the  
6 governmental entity or of the general public. This section does not  
7 supersede or in any manner affect the federal laws governing  
8 copyrights or enlarge, diminish or affect in any other manner the  
9 rights of a person in any written book or record which is  
10 copyrighted pursuant to federal law.

11 2. A governmental entity may not reject a book or record  
12 which is copyrighted solely because it is copyrighted.

13 3. A governmental entity that has legal custody or control of a  
14 public book or record shall not deny a request made pursuant to  
15 subsection 1 to inspect or copy or receive a copy of a public book or  
16 record on the basis that the requested public book or record contains  
17 information that is confidential if the governmental entity can  
18 redact, delete, conceal or separate the confidential information from  
19 the information included in the public book or record that is not  
20 otherwise confidential.

21 4. A person may request a copy of a public record in any  
22 medium in which the public record is readily available. An officer,  
23 employee or agent of a governmental entity who has legal custody  
24 or control of a public record:

25 (a) Shall not refuse to provide a copy of that public record in a  
26 readily available medium because the officer, employee or agent has  
27 already prepared or would prefer to provide the copy in a different  
28 medium.

29 (b) Except as otherwise provided in NRS 239.030, shall, upon  
30 request, prepare the copy of the public record and shall not require  
31 the person who has requested the copy to prepare the copy himself  
32 or herself.

33 **Sec. 4.** This act becomes effective upon passage and approval.

