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FIRST REPRINT

A.B. 301

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, with limited exceptions, that 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, with limited exceptions, 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, with limited exceptions, that any
2 communications made between parties during a peer support counseling session are
3 confidential. **Section 1** also provides immunity from liability to a law enforcement
4 or public safety agency for any disclosure made in violation of the provisions of
5 this bill by any personnel of the agency who participate in a peer support
6 counseling session.

7 **Section 2** of this bill creates a testimonial privilege allowing, with limited
8 exceptions, a counselor or participant in a peer support counseling session to refuse
9 to disclose or to prevent another party from disclosing any communication made
10 during a peer support counseling session in certain court proceedings.

11 **Section 3** of this bill provides that any notes, records or reports of any peer
12 support counseling session are not public records.



* A B 3 0 1 R 1 *

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 must not be*
5 *disclosed by any person participating in the peer support*
6 *counseling session unless:*

7 (a) *The communication is any of the following:*

8 (1) *Any explicit threat of suicide;*

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

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

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

15 (b) *The law enforcement or public safety personnel who were a*
16 *party to the communication waive the confidentiality of the*
17 *communication; or*

18 (c) *A court of competent jurisdiction issues an order or*
19 *subpoena requiring the disclosure of the communication.*

20 2. *This section:*

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

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

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

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

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



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1 5. *As used in this section:*

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

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

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

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

16 (c) *“Law enforcement or public safety personnel” includes,*
17 *without limitation, peace officers, sheriffs’ deputies, corrections*
18 *officers, probation officers, firefighters, paramedics, emergency*
19 *dispatchers or any other employee or volunteer reserve member of*
20 *a law enforcement or public safety agency whose duties involve*
21 *emergency response or criminal investigation.*

22 (d) *“Peer support counseling session” means any counseling*
23 *formally provided through a peer support program between a*
24 *counselor and one or more law enforcement or public safety*
25 *personnel.*

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

28 1. *Any law enforcement or public safety personnel who*
29 *participate in a peer support counseling session and any counselor*
30 *providing such counseling have a privilege to refuse to disclose,*
31 *and to prevent any other person from disclosing, any confidential*
32 *communications set forth in section 1 of this act unless:*

33 (a) *The communication is any of the following:*

34 (1) *Any explicit threat of suicide;*

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

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

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

41 (b) *The law enforcement or public safety personnel who were a*
42 *party to the communication waive the confidentiality of the*
43 *communication; or*

44 (c) *A court of competent jurisdiction issues an order or*
45 *subpoena requiring the disclosure of the communication.*



1 **2. As used in this section, "counselor," "law enforcement or**
2 **public safety personnel" and "peer support counseling session"**
3 **have the meanings ascribed to them in section 1 of this act.**

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

5 239.010 1. Except as otherwise provided in this section and
6 NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440,
7 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,
8 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246,
9 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355,
10 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,
11 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,
12 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370,
13 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,
14 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817,
15 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
16 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
17 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160,
18 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651,
19 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040,
20 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350,
21 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270,
22 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
23 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
24 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
25 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,
26 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,
27 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
28 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,
29 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
30 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420,
31 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
32 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,
33 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
34 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
35 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,
36 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,
37 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
38 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
39 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
40 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,
41 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,
42 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,
43 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,
44 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
45 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,



1 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,
2 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
3 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
4 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
5 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
6 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
7 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
8 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
9 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,
10 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
11 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
12 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
13 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
14 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
15 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
16 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
17 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
18 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
19 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
20 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
21 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
22 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
23 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
24 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
25 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
26 710.159, 711.600, *and sections 1 and 3 of this act*, sections 35, 38
27 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
28 chapter 391, Statutes of Nevada 2013 and unless otherwise declared
29 by law to be confidential, all public books and public records of a
30 governmental entity must be open at all times during office hours to
31 inspection by any person, and may be fully copied or an abstract or
32 memorandum may be prepared from those public books and public
33 records. Any such copies, abstracts or memoranda may be used to
34 supply the general public with copies, abstracts or memoranda of the
35 records or may be used in any other way to the advantage of the
36 governmental entity or of the general public. This section does not
37 supersede or in any manner affect the federal laws governing
38 copyrights or enlarge, diminish or affect in any other manner the
39 rights of a person in any written book or record which is
40 copyrighted pursuant to federal law.

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

43 3. A governmental entity that has legal custody or control of a
44 public book or record shall not deny a request made pursuant to
45 subsection 1 to inspect or copy or receive a copy of a public book or



1 record on the basis that the requested public book or record contains
2 information that is confidential if the governmental entity can
3 redact, delete, conceal or separate the confidential information from
4 the information included in the public book or record that is not
5 otherwise confidential.

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

10 (a) Shall not refuse to provide a copy of that public record in a
11 readily available medium because the officer, employee or agent has
12 already prepared or would prefer to provide the copy in a different
13 medium.

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

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

