

New California Law Supports Local Agency Peer Support Programs

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Peer support programs statewide have new liability and confidentiality protections thanks to the "Law Enforcement Peer Support and Crisis Referral Services Program" that became law this January. The new statute, Government Code sections 8669.1-8669.7, supports local agency peer support by providing for training in confidential communications and giving employee organizations a role in designing peer support programs.

The new law requires any local law enforcement agency peer support and crisis referral program to provide peer supporters throughout the agency who are available to provide help for emotional and professional problems. The law also defines the scope of peer support services that may be provided and establishes minimum requirements for peer support policies.

Peer Supporters Gain Confidentiality and Liability Protections

Emergency service providers and first responders are at the highest risk of any public employees from trauma, post-traumatic stress and their severe consequences, such as divorce, depression, alcoholism and self-destruction. As the Fraternal Order of Police noted in its support of this legislation, these issues often are left unresolved because there are few resources to which officers can turn without fear of losing their job.

The new statute addresses that problem by making communications between a peace officer and a peer support team member confidential. A peace officer now has the right to refuse to disclose those communications, and to prevent a peer counselor from disclosing them, except in criminal proceedings, cases where the disclosure is necessary to prevent death or substantial bodily harm, for purposes of referring the officer to crisis services, and in other limited circumstances. The confidentiality provisions also apply to disclosure of confidential communications to crisis hotlines or crisis referral services in civil, administrative and arbitration proceedings.

"Confidential communications" are defined in the statute as any information transmitted between a law enforcement officer and a peer supporter or a crisis hotline or crisis referral service staff member while providing peer support services. Confidentiality for these communications is essential to allow officers in crisis, whether from critical incidents or other trauma, to talk freely to peer supporters without fear of embarrassment, disclosure or reprisal.

To further strengthen law enforcement peer support programs, the new law exempts peer support team members and their agencies from any liability for damages related to performing peer support services except in cases of gross

negligence or intentional misconduct. These protections mean a peer supporter cannot be held liable if an officer responds to peer support with self-harm, property damage or other acts causing damage or injury.

For both the confidentiality and liability protections to apply, peer support team members must complete a training course on peer support that covers such topics as critical incident stress debriefings, substance abuse awareness and grief support as well as confidentiality obligations and stress management. California POST now offers peer support courses, as do several private-sector providers.

Statute Requires Agencies to Work with Employee Organizations

The statute requires agencies to consult with “employee representative organization[s]” to develop and implement peer support programs. A union, lodge or other employee organization representing peace officers often is the best resource for creating the relationships of trust among peer supporters, officers and administrators that are necessary for a peer support program to function effectively.

Peer support programs too often fail because officers do not trust that what they say to a peer will be kept confidential. California’s new peer support statute will strengthen law enforcement peer support programs by relieving agencies and peer support teams of the burdens of potential liability for peer support activities while enforcing the confidentiality of peer support communications.