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Representatives Abrams, Baldrige

Cosponsors: Representatives LaRe, Seitz, Miller, K., Young, T., Jones, White, Ghanbari, Gross, Richardson, Miller, A., Miller, J., Brown, Carruthers, Click, Edwards, Ginter, Hall, Hillyer, John, Leland, Lepore-Hagan, Liston, McClain, Miranda, O'Brien, Oelslager, Patton, Pavliga, Plummer, Ray, Roemer, Schmidt, Stein, Swearingen, Weinstein, Speaker Cupp

Senators Blessing, Cirino, Craig, Gavarone, Johnson, Manning, Romanchuk, Thomas, Yuko

A BILL

To amend section 4735.05 and to enact sections 1
2317.023 and 4113.42 of the Revised Code to 2
generally allow for privileged testimonial 3
communications between a peer support team 4
member and an individual receiving peer support 5
services or advice from the team member. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4735.05 be amended and sections 7
2317.023 and 4113.42 of the Revised Code be enacted to read as 8
follows: 9

Sec. 2317.023. (A) As used in this section: 10

(1) "Corrections officer" means a person employed by a 11
public or private place used for the confinement of a person 12
charged with or convicted of any crime in this state or another 13
state or under the laws of the United States or alleged or found 14

to be a delinquent child or unruly child in this state or 15
another state or under the laws of the United States. 16

(2) "Emergency medical worker" means a first responder, 17
emergency medical technician-basic, emergency medical 18
technician-intermediate, or emergency medical technician- 19
paramedic, certified under Chapter 4765. of the Revised Code, 20
whether paid or volunteer. 21

(3) "Firefighter" means a firefighter, whether paid or 22
volunteer, of a lawfully constituted fire department. 23

(4) "Peace officer" has the same meaning as in section 24
2935.01 of the Revised Code. 25

(5) "Peer support services" means consultation, risk 26
assessment, referral, or on-site intervention services provided 27
by a peer support team member to an individual experiencing 28
psychological or physical symptoms caused by exposure to acute 29
or chronic high stress incidents in the course of the 30
individual's employment. "Peer support services" includes both 31
of the following: 32

(a) Providing knowledge and experience or emotional, 33
social, or practical support to peers; 34

(b) Helping a peer navigate available resources, including 35
the mental health system. 36

(6) "Peer support team member" means an individual who 37
satisfies all of the following: 38

(a) The individual is one of the following: 39

(i) A peace officer, firefighter, emergency medical 40
worker, or corrections officer; 41

(ii) A dispatcher for peace officers, firefighters, or 42
emergency medical workers; 43

(iii) A civilian employee of an entity that employs peace 44
officers, firefighters, emergency medical workers, or 45
corrections officers; 46

(iv) A retired peace officer, firefighter, emergency 47
medical worker, or corrections officer acting with the approval 48
of the retired employee's former employer or the approval of the 49
employer appointing the peer support team; 50

(v) A retired dispatcher for peace officers, firefighters, 51
or emergency medical workers acting with the approval of the 52
retired dispatcher's former employer or the approval of the 53
employer appointing the peer support team. 54

(b) The individual has received not less than sixteen 55
hours of basic peer support training that meets the requirements 56
of division (H) of this section. 57

(c) The individual, as part of a peer support team, 58
provides peer support services to individuals with similar life 59
experiences. 60

(7) "Peer support team" means an organized group that has 61
been appointed by any of the following entities to provide peer 62
support services to an employee or member: 63

(a) An employer; 64

(b) A labor organization as defined in section 3517.01 of 65
the Revised Code; 66

(c) A charitable organization consisting of current or 67
former peace officers, firefighters, emergency medical workers, 68
or dispatchers of peace officers, firefighters, or emergency 69

medical workers. 70

(B) Except as provided in division (C) of this section, a 71
peer support team member shall not testify concerning either of 72
the following: 73

(1) A communication received from an individual who 74
receives peer support services from the peer support team 75
member; 76

(2) The peer support team member's advice to the 77
individual. 78

(C) The testimonial privilege established under division 79
(B) of this section does not apply if any of the following are 80
true: 81

(1) The communication or advice indicates clear and 82
present danger to the individual who receives peer support 83
services or to other persons. 84

(2) The individual who received peer support services 85
expressly consents to the testimony. 86

(3) If the individual who received peer support services 87
is deceased, the surviving spouse or the executor or 88
administrator of the estate of the deceased individual expressly 89
consents. 90

(4) The individual who received peer support services 91
voluntarily testifies, in which case the peer support team 92
member may be compelled to testify on the same subject. 93

(5) The court in camera determines that the information 94
communicated by the individual who received peer support 95
services is not germane to the relationship between the 96
individual and the peer support team member. 97

<u>(6) The communication or advice pertains or is related to</u>	98
<u>any criminal act.</u>	99
<u>(D) For purposes of division (C)(1) of this section,</u>	100
<u>indications of past or present abuse or neglect of a child</u>	101
<u>constitute a clear and present danger.</u>	102
<u>(E) To receive the testimonial privilege established under</u>	103
<u>division (B) of this section, a peer support team member must</u>	104
<u>complete not less than eight hours of basic peer support</u>	105
<u>training every two years.</u>	106
<u>(F) For the testimonial privilege established under</u>	107
<u>division (B) of this section to apply to a communication made at</u>	108
<u>the scene of and immediately after an incident that involves a</u>	109
<u>substantial risk of serious physical harm to persons, serious</u>	110
<u>physical harm to persons, or the loss of human life, the peer</u>	111
<u>support team member must have provided the peer support services</u>	112
<u>at the request of the recipient and at the direction of the</u>	113
<u>appointing entity listed in division (A)(7) of this section.</u>	114
<u>(G) An employer or organization that appoints a peer</u>	115
<u>support team may designate any of the following individuals as</u>	116
<u>an advisor to ensure team members are appropriately trained and</u>	117
<u>are providing proper peer support services:</u>	118
<u>(1) An individual licensed to practice medicine and</u>	119
<u>surgery or osteopathic medicine and surgery by the state medical</u>	120
<u>board, including such an individual who has satisfactorily</u>	121
<u>completed a residency training program in psychiatry;</u>	122
<u>(2) An individual licensed under Chapter 4732. of the</u>	123
<u>Revised Code to practice psychology;</u>	124
<u>(3) A clinical nurse specialist as defined in section</u>	125
<u>4723.01 of the Revised Code who holds a psychiatric-mental</u>	126

<u>health credential issued by the American nurses credentialing</u>	127
<u>center or a successor organization;</u>	128
<u>(4) A certified nurse practitioner as defined in section</u>	129
<u>4723.01 of the Revised Code who holds a psychiatric-mental</u>	130
<u>health credential issued by the American nurses credentialing</u>	131
<u>center or a successor organization;</u>	132
<u>(5) A licensed professional clinical counselor or licensed</u>	133
<u>professional counselor authorized to practice under Chapter</u>	134
<u>4757. of the Revised Code;</u>	135
<u>(6) A licensed independent social worker or licensed</u>	136
<u>social worker authorized to practice under Chapter 4757. of the</u>	137
<u>Revised Code.</u>	138
<u>(H) The training required for a peer support team member</u>	139
<u>under division (A)(6)(b) of this section shall include the</u>	140
<u>following topics:</u>	141
<u>(1) An introduction to peer support services and basic</u>	142
<u>peer support skills;</u>	143
<u>(2) Understanding and identifying the risk factors of</u>	144
<u>mental health problems for the peer support team member's peers;</u>	145
<u>(3) Understanding confidentiality and privacy for</u>	146
<u>privileged communications;</u>	147
<u>(4) Identifying local mental health support resources;</u>	148
<u>(5) Understanding the importance of engaged communication,</u>	149
<u>listening, and conflict resolution in the context of providing</u>	150
<u>peer support services.</u>	151
<u>Sec. 4113.42. (A) As used in this section, "peer support</u>	152
<u>team" and "peer support team member" have the same meanings as</u>	153

in section 2317.023 of the Revised Code. 154

(B) An employer or organization that appoints a peer support team, or an advisor designated by an employer or organization under division (F) of section 2317.023 of the Revised Code, shall keep a roster of the peer support team members that make up each peer support team maintained by the employer or organization. The employer, organization, or advisor shall do both of the following in the roster: 155
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(1) Identify each peer support team member providing services at the time the roster is created by first and last name; 162
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(2) Identify whether the member is in compliance with the peer support training requirements necessary for the testimonial privilege described in section 2317.023 of the Revised Code. 165
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(C) The roster shall not include the address, telephone number, or other contact information for a team member. The employer, organization, or advisor shall update the roster on a regular basis. 168
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(D) The roster required by this section is not a public record under section 149.43 of the Revised Code. However, the employer, organization, or advisor shall make the roster available at the request of a prosecutor, investigator, or any other individual who has a legal right or duty to determine whether a peer support team member is prohibited from testifying in any proceeding to which section 2317.023 of the Revised Code applies. 172
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Sec. 4735.05. (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of 180
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the commission, or the director may designate any employee of 183
the department as superintendent of real estate and professional 184
licensing to act as executive officer of the commission. 185

The commission and the real estate appraiser board created 186
pursuant to section 4763.02 of the Revised Code shall each 187
submit to the director a list of three persons whom the 188
commission and the board consider qualified to be superintendent 189
within sixty days after the office of superintendent becomes 190
vacant. The director shall appoint a superintendent from the 191
lists submitted by the commission and the board, and the 192
superintendent shall serve at the pleasure of the director. 193

(B) The superintendent, except as otherwise provided, 194
shall do all of the following in regard to this chapter: 195

(1) Administer this chapter; 196

(2) Issue all orders necessary to implement this chapter; 197

(3) Investigate complaints concerning the violation of 198
this chapter or the conduct of any licensee; 199

(4) Establish and maintain an investigation and audit 200
section to investigate complaints and conduct inspections, 201
audits, and other inquiries as in the judgment of the 202
superintendent are appropriate to enforce this chapter. The 203
investigators or auditors have the right to review and audit the 204
business records of licensees and continuing education course 205
providers during normal business hours. 206

(5) Appoint a hearing examiner for any proceeding 207
involving disciplinary action under section 3123.47, 4735.052, 208
or 4735.18 of the Revised Code; 209

(6) Administer the real estate recovery fund. 210

(C) The superintendent may do all of the following:	211
(1) In connection with investigations and audits under	212
division (B) of this section, subpoena witnesses as provided in	213
section 4735.04 of the Revised Code;	214
(2) Apply to the appropriate court to enjoin any violation	215
of this chapter. Upon a showing by the superintendent that any	216
person has violated or is about to violate any provision of this	217
chapter, the court shall grant an injunction, restraining order,	218
or other appropriate order.	219
(3) Recommend the appointment of an ancillary trustee who	220
is qualified as determined by the superintendent in any of the	221
following instances:	222
(a) Upon the death of a licensed broker, if there is no	223
other licensed broker within the brokerage, upon application by	224
any interested party, subject to the approval by the appropriate	225
probate court, to conclude the business transactions of the	226
deceased broker;	227
(b) Upon the revocation of a licensed broker, if there is	228
no other licensed broker within the brokerage, to conclude the	229
business transactions of the revoked broker;	230
(c) Upon the incapacitation, suspension, or incarceration	231
of a licensed broker, if there is no other licensed broker	232
within the brokerage, to continue the business transactions of	233
the brokerage for a period of time not to exceed the period of	234
incapacitation, suspension, or incarceration.	235
(4) In conjunction with the enforcement of this chapter,	236
when the superintendent of real estate has reasonable cause to	237
believe that an applicant or licensee has committed a criminal	238
offense, the superintendent of real estate may request the	239

superintendent of the bureau of criminal identification and 240
investigation to conduct a criminal records check of the 241
applicant or licensee. The superintendent of the bureau of 242
criminal identification and investigation shall obtain 243
information from the federal bureau of investigation as part of 244
the criminal records check of the applicant or licensee. The 245
superintendent of real estate may assess the applicant or 246
licensee a fee equal to the fee assessed for the criminal 247
records check. 248

(5) In conjunction with the enforcement of this chapter, 249
issue advisory letters in lieu of initiating disciplinary action 250
under section 4735.051 or 4735.052 of the Revised Code or 251
issuing a citation under section 4735.16 or 4735.181 of the 252
Revised Code. 253

(D) All information that is obtained by investigators and 254
auditors performing investigations or conducting inspections, 255
audits, and other inquiries pursuant to division (B)(4) of this 256
section, from licensees, complainants, or other persons, and all 257
reports, documents, and other work products that arise from that 258
information and that are prepared by the investigators, 259
auditors, or other personnel of the department, shall be held in 260
confidence by the superintendent, the investigators and 261
auditors, and other personnel of the department. Notwithstanding 262
~~division (D) of section 2317.023~~ any provision of the Revised 263
Code to the contrary, all information obtained by investigators 264
or auditors from an informal mediation meeting held pursuant to 265
section 4735.051 of the Revised Code, including but not limited 266
to the agreement to mediate and the accommodation agreement, 267
shall be held in confidence by the superintendent, 268
investigators, auditors, and other personnel of the department. 269

(E) This section does not prevent the division of real 270
estate and professional licensing from releasing information 271
relating to licensees to the superintendent of financial 272
institutions for purposes relating to the administration of 273
Chapter 1322. of the Revised Code, to the superintendent of 274
insurance for purposes relating to the administration of Chapter 275
3953. of the Revised Code, to the attorney general, or to local 276
law enforcement agencies and local prosecutors. Information 277
released by the division pursuant to this section remains 278
confidential. 279

Section 2. That existing section 4735.05 of the Revised 280
Code is hereby repealed. 281