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AB-1116 Firefighters: peer support. (2019-2020)

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Assembly Bill No. 1116

CHAPTER 388

An act to add Article 21 (commencing with Section 8669.05) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to firefighters.

[Approved by Governor October 01, 2019. Filed with Secretary of State October 01, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, Grayson. Firefighters: peer support.

Under existing law, the California Emergency Services Act, the Governor is authorized to proclaim a state of emergency, as defined, under specified circumstances. The California Emergency Services Act also authorizes the governing body of a city, county, city and county, or an official designated by ordinance adopted by that governing body, to proclaim a local emergency, as defined. Existing law provides that a person has a privilege to refuse to disclose, and prevent another from disclosing, a confidential communication with specified persons, except in specified circumstances.

This bill would enact the California Firefighter Peer Support and Crisis Referral Services Act. The bill would authorize the state or a local or regional public fire agency to establish a Peer Support and Crisis Referral Program to provide an agencywide network of peer representatives available to aid fellow employees on emotional or professional issues. The bill would, for purposes of the act, define a "peer support team" as a team composed of emergency service personnel, as defined, hospital staff, clergy, and educators who have completed a peer support training course, as specified. The bill would provide that an emergency service personnel, whether or not a party to an action, has a right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the emergency service personnel and a peer support team member, crisis hotline staff member, or crisis referral service, except under limited circumstances, including, among others, when disclosure is reasonably believed to be necessary to prevent death, substantial bodily harm, or commission of a crime, or when disclosure is required as part of a mandated reporter obligation. The bill would also provide that, except for an action for medical malpractice, a peer support team member providing peer support services as a member of a peer support team and the public fire agency that employs them are not liable for damages, as specified, relating to an act, error, or omission in performing peer support services, unless the act, error, or omission constitutes gross negligence or intentional misconduct.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) Firefighters frequently respond to traumatic incidents and dangerous circumstances, including, but not limited to, fires, stabbings, gun battles and shootings, domestic violence, terrorist acts, riots, automobile accidents, airplane crashes,

earthquakes, and other gruesome scenes that have a profound impact on their mental health. They are exposed to harmful substances, such as blood, urine, and vomit. They witness grave injuries, death, and grief. They are frequently placed in harm's way, with significant risk of bodily harm or physical assault while performing the duties of their jobs.

(b) The traumatic and unpredictable nature of being a firefighter results in a high-stress working environment that can take an overwhelming mental, emotional, and physical toll on personnel. Chronic exposure to traumatic events and critical incidents increases the risk for post-traumatic stress and other stress-induced injuries.

(c) While most firefighters survive the traumas of their jobs, sadly, many experience the impacts of occupational stressors when off duty. The psychological and emotional stress of their profession can have a detrimental impact long after their shift is over.

(d) Such trauma-related injuries can become overwhelming, manifesting in post-traumatic stress, which results in substance use disorders and even, tragically, suicide. The fire service is four times more likely to experience a suicide than a "traditional" death in the line of duty in any year.

(e) Similar to military personnel, California's firefighters face unique and uniquely dangerous risks in their mission to keep the public safe. These professionals rely on each other for survival while placing their lives on the line every day to protect the communities they serve.

(f) The culture of emergency services has often inhibited its personnel from asking for assistance in battling their psychological stress for fear it will cause ridicule, shame, or adverse job action.

(g) California has a responsibility to ensure that its emergency service and public safety agencies are equipped with the tools necessary to assist firefighters to mitigate the occupational stress that they experience as a result of performing their job duties.

(h) It is, therefore, the intent of the Legislature in enacting the California Firefighter Peer Support and Crisis Referral Services Act to enable critically needed, confidential peer support and crisis referral services for California's firefighters.

(i) It is the intent of the Legislature in enacting the California Firefighter Peer Support and Crisis Referral Services Act that a confidential communication made by emergency service personnel, a peer support team member, or crisis referral service staff remain confidential.

SEC. 2. Article 21 (commencing with Section 8669.05) is added to Chapter 7 of Division 1 of Title 2 of the Government Code, to read:

Article 21. California Firefighter Peer Support and Crisis Referral Services Act

8669.05. This article shall be known, and may be cited, as the California Firefighter Peer Support and Crisis Referral Services Act.

8669.10. (a) The state or any local or regional public fire agency may establish a Peer Support and Crisis Referral Program. The program shall be responsible for providing an agencywide network of peer representatives, reflective of the agency's workforce both in job positions and personal experiences, who are available to come to the aid of their fellow employees on a broad range of emotional or professional issues.

(b) The Peer Support and Crisis Referral Program may provide employee support and referral services for matters such as, but not limited to, any of the following:

- (1) Substance use and substance abuse.
- (2) Critical incident stress.
- (3) Family issues.
- (4) Grief support.
- (5) Legal issues.
- (6) Line of duty deaths.
- (7) Serious injury or illness.
- (8) Suicide.
- (9) Victims of crime.
- (10) Workplace issues.

(c) A public fire agency may augment its Peer Support and Crisis Referral Program with program policies that are consistent with this act.

8669.15. For purposes of this article, the following terms have the following meanings:

(a) "Confidential communication" means any information, including, but not limited to, written or oral communication, transmitted between an emergency service personnel, a peer support team member, or a crisis hotline or crisis referral service staff member while the peer support team member provides peer support services or the crisis hotline or crisis referral service staff member provides crisis services, and in confidence by a means that, as far as the emergency service personnel is aware, does not disclose the information to third persons other than those who are present to further the interests of the emergency service personnel or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the peer support team member is providing services.

(b) "Crisis referral services" include all public or private organizations that provide consultation and treatment resources for personal problems, including mental health issues, chemical dependency, domestic violence, gambling, financial problems, and other personal crises. Neither crisis referral services nor crisis hotlines include services provided by an employee association, labor relations representative or labor relations organization, or any entity owned or operated by an employee association, labor relations representative, or labor relations organization.

(c) "Critical incident" means an event or situation that involves crisis, disaster, trauma, or emergency.

(d) "Critical incident stress" means the acute or cumulative psychological stress or trauma that emergency service personnel may experience in providing emergency services in response to a critical incident. The stress or trauma is an unusually strong emotional, cognitive, behavioral, or physical reaction that may interfere with normal functioning and could lead to post-traumatic stress and other injuries, including, but not limited to, the following:

- (1) Physical and emotional illness.
- (2) Failure of usual coping mechanisms.
- (3) Loss of interest in the job or normal life activities.
- (4) Personality changes.
- (5) Loss of ability to function.
- (6) Psychological disruption of personal life, including the person's relationship with a spouse, child, or friend.

(e) "Emergency service personnel" means an employee of the state, local, or regional public fire agency who provides emergency response services, including a firefighter, paramedic, emergency medical technician, dispatcher, emergency response communication employee, rescue service personnel, emergency manager, or any other employee of a state, local, or regional public fire agency.

(f) "Peer support services" means authorized peer support services provided by a peer support team member to emergency service personnel and their immediate families affected by a critical incident or the cumulative effect of witnessing multiple critical incidents. Peer support services assist those affected by a critical incident in coping with critical incident stress and mitigating reactions to critical incident stress, including reducing the risk of post-traumatic stress and other injuries. Peer support services may include any of the following:

- (1) Precrisis education.
- (2) Critical incident stress defusings.
- (3) Critical incident stress debriefings.
- (4) On-scene support services.
- (5) One-on-one support services.
- (6) Consultation.
- (7) Referral services.
- (8) Confidentiality obligations.
- (9) The impact of toxic stress on health and well-being.

(10) Grief support.

(11) Substance abuse awareness and approaches.

(12) Active listening skills.

(g) "Peer support program" means a program administered by the state, local, or regional public fire agency to deliver peer support services to emergency service personnel consistent with this article and implemented through a labor management agreement negotiated separate and apart from any collective bargaining agreement covering affected employees.

(h) "Peer support team" means a team or teams composed of emergency service personnel, hospital staff, clergy, and educators who have completed a peer support training course developed pursuant to Section 8669.30, and who have been appointed to the team pursuant to program policy.

(i) "Peer support team member" means a public fire agency employee who has completed an approved peer support training course or courses pursuant to Section 8669.30. Agency selection criteria for peer support team members shall be incorporated into program policies.

8669.17. (a) A peer support program for local or regional public fire agencies shall be implemented through a labor management agreement negotiated separate and apart from any collective bargaining agreement covering affected employees.

(b) Department of Forestry and Fire Protection peer support program policies that were in effect on July 1, 2019, shall continue as they existed on that date, and any prospective changes to the program policies as they were in effect on that date shall be subject to a meet and confer process regarding those prospective changes with the employee organization representing a majority of the personnel employed by the agency.

8669.20. (a) In any civil, administrative, or arbitration proceeding, an emergency service personnel, whether or not a party to an action, has a right to refuse to disclose, and to prevent another from disclosing, a confidential communication between the emergency service personnel and a peer support team member made while the peer support team member was providing peer support services, or a confidential communication made to a crisis hotline or crisis referral service.

(b) Notwithstanding subdivision (a), a confidential communication described in subdivision (a) may be disclosed only under the following circumstances:

(1) The peer support team member reasonably must make an appropriate referral of the emergency service personnel to, or consult about the emergency service personnel with, another member of the peer support team or a peer support team clinician associated with the peer support team.

(2) The peer support team member reasonably believes that disclosure is necessary to prevent death, substantial bodily harm, or commission of a crime.

(3) The peer support team member reasonably believes that disclosure is necessary pursuant to an obligation to report instances of child abuse, as required by Section 11166 of the Penal Code, or other obligation to disclose or report as a mandated reporter.

(4) The disclosure is made pursuant to a court order in a civil proceeding.

(5) The emergency service personnel expressly agrees in writing that the confidential communication may be disclosed.

(c) If the communication is disclosed pursuant to paragraph (1), (2), (3), or (4) of subdivision (b), a peer support team member shall notify the emergency service personnel of the disclosure in writing.

(d) The provisions of this section shall apply to the Department of Forestry and Fire Protection peer support program in effect as of July 1, 2019.

8669.25. (a) Except as otherwise provided in subdivision (b), an emergency service personnel who provides peer support services as a member of a peer support team and has completed a training course described in Section 8669.30 and the state, local, or regional public fire agency that employs them, shall not be liable for damages, including personal injury, wrongful death, property damage, or other loss related to an act, error, or omission in performing peer support services, unless the act, error, or omission constitutes gross negligence or intentional misconduct.

(b) Subdivision (a) does not apply to an action for medical malpractice.

(c) A person described in subdivision (a) shall not provide peer support services if, when serving in a peer support role, the individual's relationship with a peer support recipient could reasonably be expected to impair objectivity, competence, or effectiveness in providing peer support, or otherwise risk exploitation or harm to a peer support recipient.

(d) Whenever possible, a person described in subdivision (a) providing peer support services should not provide those services to a peer support recipient if the provider and recipient were both involved in the same specific traumatic incident, unless the incident is a large-scale incident.

8669.30. (a) In order to be eligible for the confidentiality protections afforded by this article, each peer support team member shall complete an approved training course or courses on peer support that may include, but are not limited to, the peer support services described in subdivision (f) of Section 8669.15.

(b) For local or regional public fire agencies, the training shall be approved by the California Firefighter Joint Apprenticeship Committee.

(c) (1) Training provided by the Department of Forestry and Fire Protection, through the Fire Service Training and Education Program, and utilized and approved by the department shall satisfy the requirements described in subdivision (a).

(2) The department may make any training courses described in paragraph (1) available upon request to any local or regional public fire agency.