

FIRST REGULAR SESSION

SENATE BILL NO. 24

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

1080S.01H

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 190, RSMo, by adding thereto two new sections relating to first responders.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 190, RSMo, is amended by adding thereto
2 two new sections, to be known as sections 190.1010 and 190.1015,
3 to read as follows:

190.1010. 1. This section and section 190.1015 shall
2 be known and may be cited as the "Missouri First Responder
3 Mental Health Initiative Act".

4 2. As used in this section, the following terms shall
5 mean:

6 (1) "Behavioral health" or "behavioral health care",
7 treatment for mental health, substance use disorder, or
8 both, co-occurring together;

9 (2) "Employee", a first responder employed by a unit
10 of state or local government, by a public hospital or
11 ambulance service, or by a 911 dispatching agency;

12 (3) "Employer", the state, a unit of local government,
13 or a public hospital or ambulance service that employs first
14 responders;

15 (4) "First responder", a law enforcement officer, 911
16 dispatcher, paramedic, emergency medical technician, or a
17 volunteer or full-time paid fire fighter employed by a unit
18 of local government, a public hospital, or an ambulance
19 service that employs first responders;

(5) "Record", any record kept by a therapist or by an agency in the course of providing behavioral health care to a first responder concerning the first responder and the services provided. "Record" includes the personal notes of the therapist or agency, as well as all records maintained by a court that have been created in connection with, in preparation for, or as a result of the filing of any petition. "Record" does not include information that has been de-identified in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) and does not include a reference to the receipt of behavioral health care noted during a patient history and physical or other summary of care;

(6) "Emergency services provider", any public employer that employs persons to provide firefighting services;

(7) "Emergency services personnel", any employee of an emergency services provider who is engaged in providing services as a first responder;

(8) "Law enforcement agency", any county sheriff, municipal police department, police department established by a university or college, the department of public safety, the department of corrections, and other state, local, or county agency comprised of county probation officers, corrections employees, or 911 telecommunicators or emergency medical dispatchers;

(9) "Peer support advisor", an employee approved by the law enforcement agency or the emergency services provider who voluntarily provides confidential support and assistance to fellow employees experiencing personal or professional problems. An emergency services provider or law enforcement agency shall provide peer support advisors

51 with an appropriate level of training in counseling to
52 provide emotional and moral support;

53 (10) "Peer support counseling program", a program
54 established by an emergency services provider, a law
55 enforcement agency, state or local police, or a firefighter
56 organization to train employees to serve as peer support
57 advisors in order to conduct peer support counseling
58 sessions;

59 (11) "Peer support counseling session", communication
60 with a peer support advisor designated by an emergency
61 services provider or law enforcement agency. A peer support
62 counseling session is accomplished primarily through
63 listening, assessing, assisting with problem solving, making
64 referrals to a professional when necessary, and conducting
65 follow-up as needed;

66 (12) "Posttraumatic stress disorder", any
67 psychological or behavioral health injury suffered by a
68 first responder by and through their employment due to their
69 exposures to stressful and life-threatening situations and
70 rigors of the job, excluding a posttraumatic stress injury
71 that arises solely as a result of a legitimate personnel
72 action by the employer such as transfer, promotion,
73 demotion, or termination, which shall not be considered a
74 compensable injury under this section.

75 3. First responders shall have the following rights to
76 behavioral health care:

77 (1) The right of full access to behavioral health care
78 services and treatment that are responsive to the needs of
79 the individual and the professions of police, firefighter,
80 emergency medical technicians, 911 dispatchers, or
81 paramedics;

82 (2) The right to seek, or access if required or
83 requested, services and treatment for behavioral health
84 needs without fear of repercussions by his or her employer
85 or supervisor and without fear of reprisal;

86 (3) The right, in the course of seeking services and
87 treatment for behavioral health, that all records, notes,
88 and conclusions by the treatment provider shall not be
89 shared with an employer unless otherwise mandated by law.
90 The right guaranteed by this subdivision may be waived by
91 the employee;

92 (4) The right of first responder employees not to be
93 compelled by their employer under the threat of discipline
94 to release any records related to behavioral health;

95 (5) The right to have behavioral health records not be
96 used in any disciplinary or other proceeding against an
97 employee;

98 (6) The right of employees to seek treatment in any
99 geographic area without restrictions or limitations imposed
100 by the employer or insurance carrier;

101 (7) The right to have behavioral health services and
102 treatment in a manner that reduces stigma and barriers to
103 those services and treatment;

104 (8) The right to receive expanded Family and Medical
105 Leave Act protections for individuals voluntarily seeking
106 preventative treatment;

107 (9) The right to be diagnosed by a licensed
108 psychiatrist, psychologist, or professional counselor
109 specializing in first responder mental health;

110 (10) The right of a first responder seeking behavioral
111 health services who has been diagnosed, after in-network
112 health insurance has been utilized, to submit corresponding
113 receipts for medical bills paid by the first responder to

the first responder behavioral health grant program established under this section for reimbursement to the first responder of out-of-pocket costs incurred from the funds specifically allocated for first responder behavioral health treatment. The first responder shall pay his or her out-of-pocket share for the behavioral health treatment prior to submitting for reimbursement. There shall be a maximum limit of twelve months beginning from the time a first responder seeks behavioral health treatment to receiving reimbursement from the program for the benefit described in this subdivision;

(11) The right to separate living quarters and treatment areas within behavioral health and detox facilities from other patients as to keep anonymity and reduce triggering events; and

(12) The right for all first responders retired from service for a period of up to thirty-six months to have full access to behavioral health treatment regardless of Medicare restrictions.

4. The rights guaranteed to first responders in this section shall be judicially enforceable. An aggrieved employee may bring an action for damages, attorney's fees, or injunctive relief against an employer for violating the provisions of this section.

5. (1) Any communication made by an employee of an emergency services provider, law enforcement agency, or peer support advisor in a peer support counseling session, as well as any oral or written information conveyed in the peer support counseling session shall be confidential and shall not be disclosed by any person participating in the peer support counseling session or released to any person or entity. Any communication relating to a peer support

counseling session made confidential under this section that is made between peer support advisors and the supervisors or staff of a peer support counseling program, or between the supervisor or staff of a peer support counseling program, shall be confidential and shall not be disclosed. The provisions of this section shall not be construed to prohibit any communications between counselors who conduct peer support counseling sessions or any communications between counselors and the supervisors or staff of a peer support counseling program.

(2) Any communication described in subdivision (1) of this subsection may be subject to a subpoena for good cause shown.

(3) The provisions of this subsection shall not apply to the following:

(a) Any threat of suicide or homicide made by a participant in a peer support counseling session or any information conveyed in a peer support counseling session related to a threat of suicide or homicide;

(b) Any information mandated by law or agency policy to be reported, including, but not limited to, domestic violence, child abuse or neglect, or elder abuse or neglect;

(c) Any admission of criminal conduct; or

(d) Any admission or act of refusal to perform duties to protect others or the employee of the emergency services provider or law enforcement agency.

(4) All communications, notes, records, and reports arising out of a peer support counseling session shall not be considered a public record subject to disclosure under chapter 610.

(5) A department or organization that establishes a peer support counseling program shall develop a policy or

rule that imposes disciplinary measures against a peer support advisor who violates the confidentiality of the peer support counseling program by sharing information learned in a peer support counseling session with personnel who are not supervisors or staff of the peer support counseling program, unless otherwise exempted under the provisions of this subsection.

(6) If the emergency services provider or law enforcement agency uses confidential information obtained during a confidential peer support counseling session conducted by a law enforcement agency or by an emergency services provider in violation of this subsection, then the aggrieved employee whose rights have been violated shall have a cause for an adverse employment action against the provider or agency.

(7) Nothing in this subsection shall be construed to limit or reduce any confidentiality protections or legal privileges that are otherwise provided by law or rule, including, but not limited to, local ordinance, state or federal law, or court rule. Any confidentiality provision enacted by local ordinance on or after August 28, 2023, shall not diminish the protections enumerated in this subsection.

6. Any emergency services provider, law enforcement agency, or statewide or local collective bargaining organization that creates a peer support program shall be subject to the provisions of this section. An emergency services provider, law enforcement agency, or collective bargaining organization shall ensure that peer support advisors receive appropriate training in counseling to conduct peer support counseling sessions. Emergency services personnel and public safety personnel may refer any

person to a peer support advisor within the emergency services provider or law enforcement agency, or if those services are not available within the agency, to another peer support counseling program that is available and approved by the emergency services provider or law enforcement agency. Notwithstanding any other provision of law to the contrary, public safety personnel shall not mandate that any employee participate in a peer support counseling program.

7. There is created within the department of mental health the "First Responder Behavioral Health Grant Program" to provide grants to the following recipients:

- (1) Units of local government;
- (2) 911 dispatching agencies;
- (3) Law enforcement agencies;
- (4) Fire protection districts;
- (5) Municipal fire departments;
- (6) Ambulance districts that employ first responders;
- (7) Missouri State Council of Fire Fighters peer support teams; and
- (8) Missouri Fraternal Order of Police peer support teams.

8. (1) There is hereby created in the state treasury the "First Responder Behavioral Health Grant Fund", which shall consist of moneys appropriated to it by the legislature. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by department of mental health for the purposes of making grants to eligible recipients under subsection 7 of this section. Notwithstanding the provisions of section

242 33.080 to the contrary, any moneys remaining in the fund at
243 the end of the biennium shall not revert to the credit of
244 the general revenue fund. The state treasurer shall invest
245 moneys in the fund in the same manner as other funds are
246 invested. Any interest and moneys earned on such
247 investments shall be credited to the fund.

248 (2) Recipients eligible for grants under subsection 7
249 of this section shall use the grants for expenses related to
250 behavioral health care services for first responders,
251 including, but not limited to, peer support education and
252 development, mental health prevention and awareness
253 training, department level education, critical incident data
254 software, mental health evaluation software, telehealth
255 services, and reimbursement for out-of-pocket costs not
256 covered by health insurance. An employer shall not reduce
257 behavioral health care provided through a first responder's
258 employee benefit package as a result of the receipt of grant
259 funds under this subsection. All records, notes, and
260 conclusions by a treatment provider providing behavioral
261 health care to first responders whose employers receive
262 grants under this subsection shall not be shared with the
263 employer unless otherwise mandated by law.

264 (3) Applicants seeking grants shall apply to the
265 department in a form and manner prescribed by the department.

266 9. The department may adopt any rules necessary to
267 implement this section. Any rule or portion of a rule, as
268 that term is defined in section 536.010, that is created
269 under the authority delegated in this section shall become
270 effective only if it complies with and is subject to all of
271 the provisions of chapter 536 and, if applicable, section
272 536.028. This section and chapter 536 are nonseverable and
273 if any of the powers vested with the general assembly

274 pursuant to chapter 536 to review, to delay the effective
275 date, or to disapprove and annul a rule are subsequently
276 held unconstitutional, then the grant of rulemaking
277 authority and any rule proposed or adopted after August 28,
278 2023, shall be invalid and void.

190.1015. 1. There shall be created within the
2 department of public safety the "Missouri First Responders
3 Mental Health Task Force" to develop recommendations
4 regarding grants issued under section 190.1010, as well as
5 to develop a mechanism to help reduce the risk and rates of
6 suicide among first responders. The task force shall be
7 composed of the following members;

8 (1) The director of department of mental health, or
9 his or her designee;

10 (2) The director of department of public safety, or
11 his or her designee;

12 (3) The president of the Missouri Association of Fire
13 Chiefs, or his or her designee;

14 (4) The president of the Missouri Association of
15 Police Chiefs, or his or her designee;

16 (5) The president of the Missouri Fraternal Order of
17 Police, or his or her designee;

18 (6) The president of the Missouri State Council of
19 Fire Fighters, or his or her designee;

20 (7) Two members who represent two different mental
21 health organizations, appointed by the director of the
22 department of mental health;

23 (8) One member who represents an organization that
24 advocates on behalf of police, appointed by the director of
25 the department of public safety;

26 (9) One member who represents organizations that
27 advocate on behalf of firefighters, appointed by the state
28 fire marshal; and

29 (10) One member who represents organizations that
30 advocate on behalf of paramedics and emergency first
31 responders, appointed by the director of the bureau of
32 emergency medical services.

33 2. Members of the task force shall be appointed within
34 thirty days of August 28, 2023, and shall serve without
35 compensation. The task force shall begin meeting no later
36 than sixty days after all members have been appointed. The
37 department of public safety shall provide administrative
38 support for the task force, and, if the subject matter is
39 either sensitive or classified, or otherwise meets necessary
40 exemptions under section 610.021 for closed meetings, the
41 task force may hold its hearings in private.

42 3. The task force shall provide recommendations for
43 agencies and organizations to access to mental health and
44 wellness services, including, but not limited to, peer
45 support programs and providing ongoing education related to
46 mental health wellness, including, but not limited to:

47 (1) Revising agency or organization employee
48 assistance programs;

49 (2) Urging health care providers to replace outdated
50 health care plans and include more progressive options
51 catering to the needs and disproportionate risks shouldered
52 by first responders;

53 (3) Providing resources for funding or public service
54 announcements and messaging campaigns aimed at raising
55 awareness of available assistance options;

56 (4) Encouraging agencies and organizations to attach
57 lists of all available resources to training manuals and
58 continuing education requirements;

59 (5) Identifying and recommending local and nationwide
60 mental health facilities that specialize in treatment of
61 first responders;

62 (6) Encouraging agencies and organizations to sponsor
63 or facilitate first responders with specialized training in
64 the areas of psychological fitness, depressive disorders,
65 early detection, and mitigation best practices. Such
66 trainings could be accomplished by:

67 (a) Assigning, appointing, or designating one member
68 of an agency or organization to attend specialized trainings
69 sponsored by an accredited agency, association, or
70 organization recognized in their fields of study;

71 (b) Seeking grants, sponsorships, or conducting
72 fundraisers to host annual or semiannual on-site visits from
73 qualified clinicians or physicians to provide early
74 detection training techniques, or to provide regular access
75 to mental health professionals;

76 (c) Requiring that a minimum number of hours of
77 disorders and wellness training be incorporated into
78 reoccurring annual or biannual training standards,
79 examinations, and curriculums, taking into close
80 consideration respective agency or organization size,
81 frequency, and number of all current federal and state
82 mandatory examinations and trainings expected respectively;
83 and

84 (d) Emphasizing the crucial importance of a balanced
85 diet, sleep, mindfulness-based stress reduction techniques,
86 moderate and vigorous intensity activities, and recreational

hobbies, which have been scientifically proven to play a major role in brain health and mental wellness;

(7) Encouraging administrators and leadership personnel to solicit training services from evidence-based, data driven organizations with personnel trained on the analytical review and interpretation of specific fields related to the nature of first responders' needs, such as posttraumatic stress disorder, substance abuse, and a chronic state of duress;

(8) Encouraging funding for expansion of preliminary self-diagnosing technologies by contacting an accredited agency, association, or organization recognized in the field or fields of specific study; normalizing help-seeking behaviors for both first responders and their families through regular messaging and peer support outreach, beginning with academy curricula and continuing education throughout individuals' careers; funding and implementing awareness campaigns that provide clear and concise calls to action about mental health and wellness, resiliency, help-seeking, treatment, and recovery; promoting and raising awareness of nonprofit organizations currently available to assist individuals in search of care and treatment; expanding Family and Medical Leave Act protections for individuals voluntarily seeking preventative treatment; and promoting and ensuring complete patient confidentiality protections; and

(9) Encouraging agencies and organizations to incorporate the following training components into already existing modules and educational curriculum:

(a) Bolstering academy and school curricula by requiring depressive disorder training catered to posttraumatic stress disorder, substance abuse, and early

119 detection techniques training, taking into close
120 consideration respective agency or organization size, and
121 the frequency and number of all current federal and state
122 mandatory examinations and trainings expected respectively;

123 (b) Continuing to allocate or match federal and state
124 funds to maintain Missouri CIT;

125 (c) Incorporating a state-approved certificate for
126 peer support training into already existing statewide
127 curriculums and mandatory examinations, annual state fire
128 marshal examinations, and physical fitness examinations.
129 The subject matter of the certificate should have an
130 emphasis on mental health and wellness, as well as
131 familiarization with topics ranging from clinical social
132 work, clinical psychology, clinical behaviorist, and
133 clinical psychiatry;

134 (d) Incorporating and performing statewide mental
135 health check-ins during the same times as already mandated
136 trainings. These checks shall not to be compared or used as
137 measures of fitness for duty evaluations or structured
138 psychological examinations; and

139 (e) Recommending comprehensive and evidence-based
140 training on the importance of preventative measures on the
141 topics of sleep, nutrition, mindfulness, and physical
142 movement.

✓