

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: SB 160

INTRODUCER: Senator Perry

SUBJECT: Peer-to-peer Support for First Responders

DATE: October 21, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<u><b>Favorable</b></u>
2.	<u>                    </u>	<u>                    </u>	<u>JU</u>	<u>                    </u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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**I. Summary:**

SB 160 creates a privileged exception for peer-to-peer communications between first responders, such as law enforcement officers, firefighters, emergency medical technicians/paramedics, public safety communications officers, and dispatchers. The bill provides that such peer-to-peer communications are confidential and prevents first responders from testifying to the contents of such communications during legal proceedings and disciplinary hearings. The bill also creates several exceptions to the privilege.

The bill will not have a fiscal impact and has an effective date of July 1, 2020.

**II. Present Situation:**

**First Responders**

A first responder is defined as a law enforcement officer, firefighter, or an emergency medical technician or paramedic employed by state or local government. Additionally, a volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is considered a first responder of the state or local government.

First responders are often exposed to incidents of death and destruction that can result in post-traumatic stress disorder (PTSD), depression, and suicide.<sup>1</sup> A study by the Ruderman Family Foundation revealed that 35 percent of police officers have suffered from PTSD and 46.8 percent of firefighters have experienced suicidal thoughts.<sup>2</sup> Further, a 2015 survey of 4,000 first responders found that 6.6 percent had attempted suicide, which is more than 10 times the rate in

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<sup>1</sup> Miriam Heyman, Jeff Dill & Robert Douglas, *The Ruderman White Paper on Mental Health and Suicide of First Responders*, RUDERMAN FAMILY FOUNDATION 7, 9 (2018), available at [https://issuu.com/rudermanfoundation/docs/first\\_responder\\_white\\_paper\\_final\\_ac270d530f8bfb](https://issuu.com/rudermanfoundation/docs/first_responder_white_paper_final_ac270d530f8bfb) (last visited Oct. 2, 2019).

<sup>2</sup> *Id.* at 12.

the general population.<sup>3</sup> Firefighters are more likely to die by suicide than in the line of duty, according to the Firefighter Behavioral Health Alliance.<sup>4</sup>

### Peer Support

A survey by the Journal of Emergency Medical Services revealed that first responders were less likely to contemplate suicide when they felt supported and encouraged at work.<sup>5</sup> One study showed that while some firefighters reported positive experiences with professional mental health help, others felt more distressed after such intervention. Alternatively, these firefighters reported benefits from peer support, which can reduce the stigma, scheduling difficulties, lack of access, lack of trust, and fear or repercussions that may prevent first responders from seeking mental health care.<sup>6</sup>

### Confidentiality

Communications between a patient and a health care practitioner are confidential.<sup>7</sup> Information that a patient discloses to a health care practitioner may only be disclosed:

- To other health care practitioners involved in the care of the patient;
- If agreed to, in writing, by the patient; or
- If compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given.<sup>8</sup>

Additionally, confidentiality between a patient and a psychotherapist may be waived where:

- The psychotherapist is a defendant in a proceeding arising from a complaint filed by the patient and information divulged is limited to the scope of the proceeding;
- The patient agrees, in writing, to waiver of confidentiality; or
- The psychotherapist believes there is imminent risk of physical harm to the patient or other members of society. The information may only be communicated to potential victims, appropriate family members, law enforcement, or other appropriate authority. There is no liability on the part of the person disclosing information in this circumstance, and no cause of action may arise under this provision.<sup>9</sup>

However, Florida law does not provide confidentiality for peer support communications between or involving non-practitioners.

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<sup>3</sup> Wes Venteicher, *Increasing suicide rates among first responders spark concerns*, FIRERESCUE NEWS, Mar. 19, 2017, <https://www.firerescue1.com/fire-ems/articles/222673018-Increasing-suicide-rates-among-first-responders-spark-concern/> (last visited Oct. 2, 2019).

<sup>4</sup> Heyman, Dill & Douglas, *supra* note 6, at 19.

<sup>5</sup> Wes Venteicher, *Increasing First Responder Suicide Rates Spark Concern*, U.S. NEWS, Mar. 25, 2017, <https://www.usnews.com/news/best-states/pennsylvania/articles/2017-03-25/increasing-first-responder-suicide-rates-spark-concern> (last visited Oct. 2, 2019).

<sup>6</sup> Substance Abuse and Mental Health Services Administration, *First Responders: Behavioral Health Concerns, Emergency Response, and Trauma*, DISASTER TECHNICAL ASSISTANCE CENTER SUPPLEMENTAL RESEARCH BULLETIN (May 2019), 10, 12, available at <https://www.samhsa.gov/sites/default/files/dtac/supplementalresearchbulletin-firstresponders-may2018.pdf> (last visited Oct. 2, 2019).

<sup>7</sup> S. 456.057, F.S.; s. 456.059, F.S.; s. 490.0147, F.S.; s. 491.0147, F.S.; s. 90.503, F.S.

<sup>8</sup> S. 456.057, F.S.

<sup>9</sup> S. 491.0147, F.S.

### III. Effect of Proposed Changes:

**Section 1** creates s. 111.09, F.S., providing that any person who is not a health care practitioner and who provides peer-to-peer support to a first responder may not testify in any civil, criminal, administrative, or disciplinary proceeding, or otherwise divulge information obtained through peer-to-peer support communications, with the following exceptions:

- Where the person providing peer support is a defendant in a proceeding arising from a complaint filed by the first responder;
- Where the first responder agrees, in writing, to allow the person to testify about or divulge information related to the peer support; and
- Where there are articulable facts or circumstances that would lead a reasonable, prudent person to fear for the safety of the first responder, another person, or society.

The bill also provides the same meaning for the term ‘first responder’ as is found in s. 112.1815, F.S., and includes public safety communications officers, dispatchers, and 911 or other phone system operators whose job duties include providing support or services to first responders. The bill defines ‘peer-to-peer support’ to mean any conversation or communication between a first responder and a person who is not a health care practitioner but who has experience working as or with a first responder regarding any physical or emotional conditions or issues associated with the first responder’s employment.

**Section 2** provides an effective date of July 1, 2020.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 111.09 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

## B. Amendments:

None.