To make Federal law enforcement officer peer support communications confidential, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2021

Mr. TRONE (for himself and Mr. RESCHENTHALER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To make Federal law enforcement officer peer support communications confidential, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Confidentiality Oppor-
tunities for Peer Support Counseling Act” or the “COPS Counseling Act”.

SEC. 2. CONFIDENTIALITY OF PEER SUPPORT COMMUNICA-

TIONS.

(a) DEFINITIONS.—In this section:
(1) **Law Enforcement Agency.**—The term “law enforcement agency” means a Federal agency that employs a law enforcement officer.

(2) **Law Enforcement Officer.**—The term “law enforcement officer” has the meaning given the term “Federal law enforcement officer” in section 115 of title 18, United States Code.

(3) **Peer Support Communication.**—The term “peer support communication” includes—

(A) an oral or written communication made in the course of a peer support counseling session;

(B) a note or report arising out of a peer support counseling session;

(C) a record of a peer support counseling session; or

(D) with respect to a communication made by a peer support participant in the course of a peer support counseling session, another communication, regarding the first communication, that is made between a peer support specialist and—

(i) another peer support specialist;

(ii) a staff member of a peer support counseling program; or
(iii) a supervisor of the peer support specialist.

(4) Peer support counseling program.—The term “peer support counseling program” means a program provided by a law enforcement agency that provides counseling services from a peer support specialist to a law enforcement officer of the agency.

(5) Peer support counseling session.—The term “peer support counseling session” means any counseling formally provided through a peer support counseling program between a peer support specialist and 1 or more law enforcement officers.

(6) Peer support participant.—The term “peer support participant” means a law enforcement officer who receives counseling services from a peer support specialist.

(7) Peer support specialist.—The term “peer support specialist” means a law enforcement officer who—

(A) has received training in—

(i) peer support counseling; and

(ii) providing emotional and moral support to law enforcement officers who have been involved in or exposed to an
emotionally traumatic experience in the
course of employment; and
(B) is designated by a law enforcement
agency to provide the services described in sub-
paragraph (A).
(b) PROHIBITION.—Except as provided in subsection
(c), a peer support specialist or a peer support participant
may not disclose the contents of a peer support commu-
nication to an individual who was not a party to the peer
support communication.
(c) EXCEPTIONS.—Subsection (b) shall not apply to
a peer support communication if—
(1) the peer support communication contains—
(A) an explicit threat of suicide, the disclo-
sure of which the peer support specialist be-
lieves is necessary to avoid a suicide attempt;
(B) an explicit threat of imminent and se-
rious physical bodily harm or death to a clearly
identified or identifiable individual;
(C) information—
(i) relating to the abuse or neglect
of—
(I) a child; or
(II) an older or vulnerable indi-
vidual; or
(ii) that is required by law to be reported; or

(D) an admission of criminal conduct;

(2) the disclosure is permitted by each peer support participant who was a party to, as applicable—

(A) the peer support communication;

(B) the peer support counseling session out of which the peer support communication arose;

(C) the peer support counseling session of which the peer support communication is a record; or

(D) the communication made in the course of a peer support counseling session that the peer support communication is regarding; or

(3) a court of competent jurisdiction issues an order or subpoena requiring the disclosure of the peer support communication.

(d) RULE OF CONSTRUCTION.—Nothing in subsection (b) shall be construed to prohibit the disclosure of—

(1) an observation made by a law enforcement officer of a peer support participant outside of a peer support counseling session; or
(2) knowledge of a law enforcement officer about a peer support participant not gained from a peer support communication.

(c) Disclosure of Rights.—Before the initial peer support counseling session of a peer support participant, a peer support specialist shall inform the peer support participant in writing of the confidentiality requirement under subsection (b) and the exceptions to the requirement under subsection (e).

SEC. 3. BEST PRACTICES AND SUPPORT.

(a) Definitions.—In this section:

(1) First Responder.—The term “first responder” has the meaning given the term “public safety officer” in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10284).

(2) First Responder Agency.—The term “first responder agency” means a Federal, State, local, or Tribal agency that employs or otherwise engages the services of a first responder.

(3) Peer Support Counseling Program.—The term “peer support counseling program” means a program provided by a first responder agency that provides counseling services from a peer support spe-
cialist to a first responder of the first responder
agency.

(4) **Peer Support Participant.**—The term
“peer support participant” means a first responder
who receives counseling services from a peer support
specialist.

(5) **Peer Support Specialist.**—The term
“peer support specialist” means a first responder
who—

(A) has received training in—

(i) peer support counseling; and

(ii) providing emotional and moral
support to first responders who have been
involved in or exposed to an emotionally
traumatic experience in the course of the
duties of those first responders; and

(B) is designated by a first responder
agency to provide the services described in sub-
paragraph (A).

(b) **Report on Best Practices.**—Not later than
2 years after the date of enactment of this Act, the Attor-
ney General, in coordination with the Secretary of Health
and Human Services, shall develop a report on best prac-
tices and professional standards for peer support coun-
selves—

(1) advice on—

(A) establishing and operating peer sup-
port counseling programs; and

(B) training and certifying peer support
specialists;

(2) a code of ethics for peer support specialists;

(3) recommendations for continuing education
for peer support specialists;

(4) advice on disclosing to first responders any
confidentiality rights of peer support participants;

and

(5) information on—

(A) the different types of peer support
counseling programs in use by first responder
agencies;

(B) any differences in peer support coun-
seling programs offered across categories of
first responders; and

(C) the important role senior first respond-
ers play in supporting access to mental health
resources.
(c) IMPLEMENTATION.—The Attorney General shall support and encourage the implementation of peer support counseling programs in first responder agencies by—

(1) making the report developed under subsection (b) publicly available on the website of the Department of Justice; and

(2) providing a list of peer support specialist training programs on the website of the Department of Justice.