

FIRST REGULAR SESSION

HOUSE BILL NO. 539

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHWADRON.

1585H.011

DANA RADEMAN MILLER, Chief Clerk

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 two new sections, to be
2 known as sections 190.1010 and 190.1015, to read as follows:

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

3 2. As used in this section, the following terms mean:

**4 (1) "Behavioral health" or "behavioral health care", treatment for mental
5 health, substance use disorder, or both occurring together;**

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

**8 (3) "Emergency services provider", any public employer that employs persons
9 to provide fire-fighting services;**

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

**12 (5) "Employer", the state, a unit of local government, a 911 dispatching agency,
13 or a public hospital or ambulance service that employs first responders;**

**14 (6) "First responder", a law enforcement officer, 911 dispatcher, paramedic,
15 emergency medical technician, or a volunteer or full-time paid firefighter employed by a
16 unit of state or local government, a 911 dispatching agency, or a public hospital or
17 ambulance service that employs first responders;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

23 (8) "Peer support advisor", an employee approved by the law enforcement
24 agency or emergency services provider who voluntarily provides confidential support
25 and assistance to fellow employees experiencing personal or professional problems. An
26 emergency services provider or law enforcement agency shall provide peer support
27 advisors with an appropriate level of training in counseling to provide emotional and
28 moral support;

29 (9) "Peer support counseling program", a program established by an emergency
30 services provider, a law enforcement agency, state or local police, or a firefighter
31 organization to train employees to serve as peer support advisors in order to conduct
32 peer support counseling sessions;

33 (10) "Peer support counseling session", communication with a peer support
34 advisor designated by an emergency services provider or law enforcement agency. A
35 peer support counseling session is accomplished primarily through listening, assessing,
36 assisting with problem solving, making referrals to a professional when necessary, and
37 conducting follow-up as needed;

38 (11) "Posttraumatic stress disorder", any psychological or behavioral health
39 injury suffered by a first responder by and through the first responder's employment
40 due to the first responder's exposure to stressful and life-threatening situations and
41 rigors of the job, excluding a posttraumatic stress injury that arises solely as a result of a
42 legitimate personnel action by the employer such as transfer, promotion, demotion, or
43 termination, which shall not be considered a compensable injury under this section;

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

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

54 **(1) The right of full access to behavioral health care services and treatment that**
55 **are responsive to the needs of the individual and the professions of police officers,**
56 **firefighters, emergency medical technicians, 911 dispatchers, and paramedics;**

57 **(2) The right to seek, or access if required or requested, services and treatment**
58 **for behavioral health needs without fear of repercussions by his or her employer or**
59 **supervisor and without fear of reprisal;**

60 **(3) The right, in the course of seeking services and treatment for behavioral**
61 **health, that all records, notes, and conclusions by the treatment provider shall not be**
62 **shared with an employer unless otherwise mandated by law. The right guaranteed by**
63 **this subdivision may be waived by the employee;**

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

66 **(5) The right to have behavioral health records not be used in any disciplinary or**
67 **other proceeding against an employee;**

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

70 **(7) The right to have behavioral health services and treatment in a manner that**
71 **reduces stigma and barriers to those services and treatment;**

72 **(8) The right to receive expanded Family and Medical Leave Act protections for**
73 **individuals voluntarily seeking preventive treatment;**

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

76 **(10) The right of a first responder seeking behavioral health services who has**
77 **been diagnosed, after in-network health insurance has been utilized, to submit**
78 **corresponding receipts for medical bills paid by the first responder to the first**
79 **responder behavioral health grant program established under this section for**
80 **reimbursement to the first responder of out-of-pocket costs incurred from the funds**
81 **specifically allocated for first responder behavioral health treatment. The first**
82 **responder shall pay his or her out-of-pocket share for the behavioral health treatment**
83 **prior to submitting for reimbursement. There shall be a maximum limit of twelve**
84 **months beginning from the time a first responder seeks behavioral health treatment to**
85 **receiving reimbursement from the program for the benefit described in this subdivision;**

86 **(11) The right to separate living quarters and treatment areas within behavioral**
87 **health and detoxification facilities from other patients so as to preserve anonymity and**
88 **reduce triggering events; and**

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

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

95 **5. (1) Any communication made by an employee of an emergency services**
96 **provider or law enforcement agency or peer support advisor in a peer support**
97 **counseling session, as well as any oral or written information conveyed in the peer**
98 **support counseling session, shall be confidential and shall not be disclosed by any person**
99 **participating in the peer support counseling session or released to any person or entity.**
100 **Any communication relating to a peer support counseling session made confidential**
101 **under this section that is made between peer support advisors and the supervisors or**
102 **staff of a peer support counseling program, or between the supervisor and staff of a peer**
103 **support counseling program, shall be confidential and shall not be disclosed. The**
104 **provisions of this section shall not be construed to prohibit any communications**
105 **between counselors who conduct peer support counseling sessions or any**
106 **communications between counselors and the supervisors or staff of a peer support**
107 **counseling program.**

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

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

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

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

116 **(c) Any admission of criminal conduct; or**

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

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

122 **(5) A department or organization that establishes a peer support counseling**
123 **program shall develop a policy or rule that imposes disciplinary measures against a peer**
124 **support advisor who violates the confidentiality of the peer support counseling program**
125 **by sharing information learned in a peer support counseling session with personnel who**

126 are not supervisors or staff of the peer support counseling program, unless otherwise
127 exempted under the provisions of this subsection.

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

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

138 6. Any emergency services provider, law enforcement agency, or statewide or
139 local collective bargaining organization that creates a peer support program shall be
140 subject to the provisions of this section. An emergency services provider, law
141 enforcement agency, or collective bargaining organization shall ensure that peer support
142 advisors receive appropriate training in counseling to conduct peer support counseling
143 sessions. Emergency services personnel and public safety personnel may refer any
144 person to a peer support advisor within the emergency services provider or law
145 enforcement agency or, if those services are not available within the provider or agency,
146 to another peer support counseling program that is available and approved by the
147 emergency services provider or law enforcement agency. Notwithstanding any other
148 provision of law to the contrary, public safety personnel shall not mandate that any
149 employee participate in a peer support counseling program.

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

- 153 (1) Units of local government;
- 154 (2) 911 dispatching agencies;
- 155 (3) Law enforcement agencies;
- 156 (4) Fire protection districts;
- 157 (5) Municipal fire departments;
- 158 (6) Ambulance districts that employ first responders;
- 159 (7) Missouri State Council of Fire Fighters peer support teams; and
- 160 (8) Missouri Fraternal Order of Police peer support teams.

161 8. (1) There is hereby created in the state treasury the "First Responder
162 Behavioral Health Grant Fund", which shall consist of moneys appropriated to it by the

163 legislature. The state treasurer shall be custodian of the fund. In accordance with
164 sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund
165 shall be a dedicated fund and moneys in the fund shall be used solely by department of
166 mental health for the purpose of making grants to eligible recipients under subsection 7
167 of this section. Notwithstanding the provisions of section 33.080 to the contrary, any
168 moneys remaining in the fund at the end of the biennium shall not revert to the credit of
169 the general revenue fund. The state treasurer shall invest moneys in the fund in the
170 same manner as other funds are invested. Any interest and moneys earned on such
171 investments shall be credited to the fund.

172 (2) Recipients eligible for grants under subsection 7 of this section shall use the
173 grants for expenses related to behavioral health care services for first responders
174 including, but not limited to, peer support education and development, mental health
175 prevention and awareness training, department-level education, critical incident data
176 software, mental health evaluation software, telehealth services, and reimbursement for
177 out-of-pocket costs not covered by health insurance. An employer shall not reduce
178 behavioral health care provided through a first responder's employee benefit package as
179 a result of the receipt of grant funds under this subsection. No record, note, or
180 conclusion by a treatment provider providing behavioral health care to first responders
181 whose employers receive grants under this subsection shall be shared with the employer
182 unless otherwise mandated by law.

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

185 9. The department may adopt any rules necessary to implement this section.
186 Any rule or portion of a rule, as that term is defined in section 536.010, that is created
187 under the authority delegated in this section shall become effective only if it complies
188 with and is subject to all of the provisions of chapter 536 and, if applicable, section
189 536.028. This section and chapter 536 are nonseverable and if any of the powers vested
190 with the general assembly pursuant to chapter 536 to review, to delay the effective date,
191 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
192 of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall
193 be invalid and void.

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

6 (1) The director of the department of mental health or his or her designee;

- 7 **(2) The director of the department of public safety or his or her designee;**
8 **(3) The president of the Missouri Association of Fire Chiefs or his or her**
9 **designee;**
10 **(4) The president of the Missouri Police Chiefs Association or his or her**
11 **designee;**
12 **(5) The president of the Missouri Fraternal Order of Police or his or her**
13 **designee;**
14 **(6) The president of the Missouri State Council of Fire Fighters or his or her**
15 **designee;**
16 **(7) Two members who represent two different mental health organizations,**
17 **appointed by the director of the department of mental health;**
18 **(8) One member who represents an organization that advocates on behalf of**
19 **police, appointed by the director of the department of public safety;**
20 **(9) One member who represents organizations that advocate on behalf of**
21 **firefighters, appointed by the state fire marshal; and**
22 **(10) One member who represents organizations that advocate on behalf of**
23 **paramedics and emergency first responders, appointed by the director of the bureau of**
24 **emergency medical services.**
- 25 **2. Members of the task force shall be appointed within thirty days after August**
26 **28, 2023, and shall serve without compensation. The task force shall begin meeting no**
27 **later than sixty days after all members have been appointed. The department of public**
28 **safety shall provide administrative support for the task force. If the subject matter is**
29 **either sensitive or classified, or otherwise meets necessary exemptions under section**
30 **610.021 for closed meetings, the task force may hold its hearings in private.**
- 31 **3. The task force shall provide recommendations for agencies and organizations**
32 **to access mental health and wellness services, including, but not limited to, peer support**
33 **programs, and provide ongoing education related to mental health wellness including,**
34 **but not limited to:**
- 35 **(1) Revising agency or organization employee assistance programs;**
36 **(2) Urging health care providers to replace outdated health care plans and**
37 **include more progressive options catering to the needs and disproportionate risks**
38 **shouldered by first responders;**
39 **(3) Providing resources for funding or public service announcements and**
40 **messaging campaigns aimed at raising awareness of available assistance options;**
41 **(4) Encouraging agencies and organizations to attach lists of all available**
42 **resources to training manuals and continuing education requirements;**

43 **(5) Identifying and recommending local and nationwide mental health facilities**
44 **that specialize in treatment of first responders;**

45 **(6) Encouraging agencies and organizations to sponsor or facilitate first**
46 **responders with specialized training in the areas of psychological fitness, depressive**
47 **disorders, early detection, and mitigation best practices. Such trainings could be**
48 **accomplished by:**

49 **(a) Assigning, appointing, or designating one member of an agency or**
50 **organization to attend specialized trainings sponsored by an accredited agency,**
51 **association, or organization recognized in the member's fields of study;**

52 **(b) Seeking grants, sponsorships, or conducting fundraisers to host annual or**
53 **semiannual on-site visits from qualified clinicians or physicians to provide early**
54 **detection techniques training or to provide regular access to mental health**
55 **professionals;**

56 **(c) Requiring that a minimum number of hours of training on disorders and**
57 **wellness be incorporated into reoccurring annual or biannual training standards,**
58 **examinations, and curricula, taking into close consideration respective agency or**
59 **organization size, frequency, and number of all current federal and state mandatory**
60 **examinations and trainings expected respectively; and**

61 **(d) Emphasizing the crucial importance of a balanced diet, sleep, mindfulness-**
62 **based stress reduction techniques, moderate and vigorous intensity activities, and**
63 **recreational hobbies, which have been scientifically proven to play a major role in brain**
64 **health and mental wellness;**

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

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

80 preventive treatment; and promoting and ensuring complete patient confidentiality
81 protections; and

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

84 (a) Bolstering academy and school curricula by requiring depressive disorder
85 training catered to posttraumatic stress disorder, substance abuse, and early detection
86 techniques training, taking into close consideration respective agency or organization
87 size and the frequency and number of all current federal and state mandatory
88 examinations and trainings expected respectively;

89 (b) Continuing to allocate or match federal and state funds to maintain the
90 Missouri crisis intervention team;

91 (c) Incorporating a state-approved certificate for peer support training into
92 already existing statewide curricula and mandatory examinations, annual state fire
93 marshal examinations, and physical fitness examinations. The subject matter of the
94 certificate should have an emphasis on mental health and wellness, as well as
95 familiarization with topics ranging from clinical social work, clinical psychology, clinical
96 behaviorist work, and clinical psychiatry;

97 (d) Incorporating and performing statewide mental health check-ins during the
98 same times as already mandated trainings. These checks shall not be compared or used
99 as measures of fitness for duty evaluations or structured psychological examinations;
100 and

101 (e) Recommending comprehensive and evidence-based training on the
102 importance of preventive measures on the topics of sleep, nutrition, mindfulness, and
103 physical movement.

✓