

**15.409 Wellness program -- Confidentiality of records and communications --
Exceptions to privilege.**

- (1) As used in this section:
 - (a) "Early intervention system" means a methodology that identifies and addresses potentially problematic behaviors; and
 - (b) "Wellness program" means a program created by a law enforcement agency to support the physical and mental health of law enforcement personnel.
- (2) A law enforcement agency may create its own wellness program in order to support the mental health and well-being of its employees. These programs may include but are not limited to an early intervention system, access to mental health counseling, crisis counseling, support systems, training, equipment, and technology necessary for an employee to perform his or her job.
- (3) Any law enforcement agency that creates its own wellness program shall establish written policies and procedures for the program.
- (4)
 - (a) Except as provided in paragraph (b) of this subsection, all proceedings, records, opinions, conclusions, and recommendations arising from any aspect of a wellness program shall be confidential and privileged from disclosure, regardless of who possesses them. Under this confidentiality and privilege, the wellness program records or communications shall be subject to the same protections as any counselor-client privilege provided under the Kentucky Rules of Evidence in any criminal or civil proceeding. The participating officer or telecommunicator shall be the holder of the privilege.
 - (b) This privilege shall not apply:
 1. To the disclosure of relevant information in response to a claim made by the holder of the privilege against a law enforcement agency related to programs or services provided by a wellness program under this section; or
 2. When an officer's or telecommunicator's communication contains:
 - a. An explicit threat of suicide in which the participant shares an intent to die by suicide, a plan to carry out a suicide attempt by the participant, or a disclosure of the means by which the participant intends to carry out a suicide attempt. This paragraph shall not apply to any wellness program communication where the officer or telecommunicator solely shares that the participant is experiencing suicidal thoughts;
 - b. An explicit threat by a participant of imminent and serious physical injury and bodily harm or death to a clearly identified or reasonably identifiable victim;
 - c. Information related to the abuse or neglect of a child or an older adult or vulnerable individual that is required by law to be reported;
 - d. An admission of criminal conduct; or
 - e. Other information which is required by law to be disclosed.

- (c) Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence, document, or record that is subject to discovery independently of the proceedings of the wellness program.
- (d) A law enforcement agency may use anonymous data for research, statistical analysis, and educational purposes.

Effective: June 29, 2023

History: Created 2023 Ky. Acts ch. 168, sec. 1, effective June 29, 2023.

Legislative Research Commission Note (6/29/2023). Under the authority of KRS 7.136(1), the Reviser of Statutes has changed the ordering of paragraphs in subsection (1) of this statute during codification to place the terms in alphabetical order. The words in the text were not changed.