

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1332 Session of
2009

INTRODUCED BY GERGELY, BRENNAN, CALTAGIRONE, VEREB, BELFANTI,
BRADFORD, BURNS, COHEN, D. COSTA, P. COSTA, DONATUCCI, ELLIS,
FABRIZIO, FRANKEL, GOODMAN, HARKINS, HENNESSEY, HORNAMAN,
KILLION, KORTZ, LONGIETTI, MAHONEY, MELIO, MENSCH, METZGAR,
MURPHY, MURT, M. O'BRIEN, PASHINSKI, PYLE, SIPTROTH,
VULAKOVICH AND WALKO, APRIL 22, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 22, 2009

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for
3 confidential communications to a critical incident stress
4 management team member by law enforcement officers, ←
5 FIREFIGHTERS, FIRST RESPONDERS AND CORRECTIONS OFFICERS.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 42 of the Pennsylvania Consolidated
9 Statutes is amended by adding a ~~section~~ SECTIONS to read: ←

10 § 5950. Confidential communications.

11 (a) Disclosure.--Except as provided under subsection (b), a
12 critical incident stress management team member who, while in
13 the course of his duties, has acquired information from any law
14 enforcement officer secretly and in confidence, may not be
15 compelled or allowed without the consent of the law enforcement
16 officer to disclose that information in a legal proceeding,
17 trial or investigation before any government unit.

1 (b) Exceptions.--The testimonial privilege established under
2 subsection (a) shall not apply if any of the following apply:

3 (1) The communication or advice indicates clear and
4 present danger to the law enforcement officer who receives
5 crisis response services or to other persons.

6 (2) The law enforcement officer who received crisis
7 response services gives express consent to the testimony.

8 (3) The law enforcement officer who received crisis
9 response services is deceased and the surviving spouse or the
10 executor or administrator of the estate of the deceased law
11 enforcement officer gives express consent.

12 (4) The law enforcement officer who received crisis
13 response services voluntarily testifies, in which case the
14 critical incident stress management team member may be
15 compelled to testify on the same subject.

16 (5) The court in camera determines that the information
17 communicated by the law enforcement officer who received
18 crisis response services is not germane to the relationship
19 between the law enforcement officer and the team member.

20 (6) The communication or advice pertains or is related
21 to any criminal act.

22 (c) Definitions.--As used in this section, the following
23 words and phrases shall have the meanings given to them in this
24 subsection:

25 "Crisis response services." Consultation, risk assessment,
26 referral and onsite crisis intervention services provided by a
27 critical incident stress management team to:

28 ~~(1)~~ a law enforcement officer who has employed the use
29 of deadly force in the course and scope of the officer's
30 employment;



1 ~~(2) a firefighter;~~
2 ~~(3) a first responder; or~~
3 ~~(4) a corrections officer of the Commonwealth or a~~
4 ~~political subdivision.~~

5 "Critical incident stress management team member." An
6 individual specially trained to provide crisis response services
7 as a member of a police organization crisis response team that
8 holds membership in the Commonwealth's critical incident stress
9 management network.

10 ~~"Debriefing session." A session during which crisis response~~ ←
11 ~~services are rendered by a critical incident stress management~~
12 ~~team member during or after the use of deadly force by a law~~
13 ~~enforcement officer.~~

14 ~~"Firefighter." A member of a municipal or volunteer fire~~
15 ~~company.~~

16 ~~"First responder." An individual who is certified by the~~
17 ~~Department of Health as a first responder.~~

18 "Law enforcement officer." Any of the following:

19 (1) A member of the Pennsylvania State Police.

20 (2) Any enforcement officer or investigator employed by
21 the Pennsylvania Liquor Control Board.

22 (3) A parole agent, enforcement officer and investigator
23 of the Pennsylvania Board of Probation and Parole.

24 (4) A Capitol Police officer.

25 (5) A Department of Conservation and Natural Resources
26 ranger.

27 (6) A drug enforcement agent of the Office of Attorney
28 General whose principal duty is the enforcement of the drug
29 laws of this Commonwealth and a special agent of the Office
30 of Attorney General whose principal duty is the enforcement

1 of the criminal laws of this Commonwealth.

2 (7) Any member of a port authority or other authority
3 police department.

4 (8) Any police officer of a county, city, borough, town
5 or township.

6 (9) Any sheriff or deputy sheriff.

7 (10) A member of the Pennsylvania Fish Commission.

8 (11) A Pennsylvania Wildlife Conservation Officer.

9 (12) A member of a Campus Police force with the power to
10 arrest under section 2416 of the act of April 9, 1929

11 (P.L.177, No.175), known as The Administrative Code of 1929.

12 As used in this paragraph, the term "campus police" has the
13 meaning given in section 302 of the act of November 29, 2004

14 (P.L.1383, No.180), known as the Uniform Crime Reporting Act.

15 (13) A member of the Fort Indiantown Gap Police Force.

16 § 5951. CONFIDENTIAL COMMUNICATIONS INVOLVING FIREFIGHTERS,

17 FIRST RESPONDERS AND CORRECTIONS OFFICERS.

18 (A) DISCLOSURE.--EXCEPT AS PROVIDED UNDER SUBSECTION (B), A

19 CRITICAL INCIDENT STRESS MANAGEMENT TEAM MEMBER WHO, WHILE IN

20 THE COURSE OF HIS DUTIES, HAS ACQUIRED INFORMATION FROM ANY

21 FIREFIGHTER, FIRST RESPONDER OR CORRECTIONS OFFICER SECRETLY AND

22 IN CONFIDENCE, MAY NOT BE COMPELLED OR ALLOWED WITHOUT THE

23 CONSENT OF THE FIREFIGHTER, FIRST RESPONDER OR CORRECTIONS

24 OFFICER TO DISCLOSE THAT INFORMATION IN A LEGAL PROCEEDING,

25 TRIAL OR INVESTIGATION BEFORE ANY GOVERNMENT UNIT.

26 (B) EXCEPTIONS.--THE TESTIMONIAL PRIVILEGE ESTABLISHED UNDER

27 SUBSECTION (A) SHALL NOT APPLY IF ANY OF THE FOLLOWING APPLY:

28 (1) THE COMMUNICATION OR ADVICE INDICATES CLEAR AND

29 PRESENT DANGER TO THE FIREFIGHTER, FIRST RESPONDER OR

30 CORRECTIONS OFFICER WHO RECEIVES CRISIS RESPONSE SERVICES OR



1 TO OTHER PERSONS.

2 (2) THE FIREFIGHTER, FIRST RESPONDER OR CORRECTIONS
3 OFFICER WHO RECEIVED CRISIS RESPONSE SERVICES GIVES EXPRESS
4 CONSENT TO THE TESTIMONY.

5 (3) THE FIREFIGHTER, FIRST RESPONDER OR CORRECTIONS
6 OFFICER WHO RECEIVED CRISIS RESPONSE SERVICES IS DECEASED AND
7 THE SURVIVING SPOUSE OR THE EXECUTOR OR ADMINISTRATOR OF THE
8 ESTATE OF THE DECEASED FIREFIGHTER, FIRST RESPONDER OR
9 CORRECTIONS OFFICER GIVES EXPRESS CONSENT.

10 (4) THE FIREFIGHTER, FIRST RESPONDER OR CORRECTIONS
11 OFFICER WHO RECEIVED CRISIS RESPONSE SERVICES VOLUNTARILY
12 TESTIFIES, IN WHICH CASE THE CRITICAL INCIDENT STRESS
13 MANAGEMENT TEAM MEMBER MAY BE COMPELLED TO TESTIFY ON THE
14 SAME SUBJECT.

15 (5) THE COURT IN CAMERA DETERMINES THAT THE INFORMATION
16 COMMUNICATED BY THE FIREFIGHTER, FIRST RESPONDER OR
17 CORRECTIONS OFFICER WHO RECEIVED CRISIS RESPONSE SERVICES IS
18 NOT GERMANE TO THE RELATIONSHIP BETWEEN THE FIREFIGHTER,
19 FIRST RESPONDER OR CORRECTIONS OFFICER AND THE TEAM MEMBER.

20 (6) THE COMMUNICATION OR ADVICE PERTAINS OR IS RELATED
21 TO ANY CRIMINAL ACT.

22 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
23 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
24 SUBSECTION:

25 "CORRECTIONS OFFICER." A CORRECTIONS OFFICER OF THE
26 COMMONWEALTH OR A POLITICAL SUBDIVISION.

27 "CRISIS RESPONSE SERVICES." CONSULTATION, RISK ASSESSMENT,
28 REFERRAL AND ONSITE CRISIS INTERVENTION SERVICES PROVIDED BY A
29 CRITICAL INCIDENT STRESS MANAGEMENT TEAM TO A FIREFIGHTER, A
30 FIRST RESPONDER OR A CORRECTIONS OFFICER.

1 "CRITICAL INCIDENT STRESS MANAGEMENT TEAM MEMBER." AN
2 INDIVIDUAL SPECIALLY TRAINED TO PROVIDE CRISIS RESPONSE SERVICES
3 AS A MEMBER OF A CRISIS RESPONSE TEAM THAT HOLDS MEMBERSHIP IN
4 THE COMMONWEALTH'S CRITICAL INCIDENT STRESS MANAGEMENT NETWORK.

5 "FIREFIGHTER." A MEMBER OF A MUNICIPAL OR VOLUNTEER FIRE
6 COMPANY.

7 "FIRST RESPONDER." AN INDIVIDUAL WHO IS CERTIFIED BY THE
8 DEPARTMENT OF HEALTH AS A FIRST RESPONDER.

9 Section 2. This act shall take effect in 60 days.