

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2821 Session of
2008

INTRODUCED BY GERGELY, VEREB, BENNINGHOFF, BELFANTI, BRENNAN,
DONATUCCI, FRANKEL, GOODMAN, JOSEPHS, LENTZ, MAHONEY,
PALLONE, ROCK, VULAKOVICH, GIBBONS, MENSCH, HARHAI AND
GALLOWAY, OCTOBER 15, 2008

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 15, 2008

AN ACT

1 Amending Title 44 (Law and Justice) of the Pennsylvania
2 Consolidated Statutes, providing for confidential
3 communications to a critical incident stress management team
4 member by law enforcement officers.

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

7 Section 1. Title 44 of the Pennsylvania Consolidated
8 Statutes is amended by adding a part to read:

9 PART IV

10 LAW ENFORCEMENT

11 Chapter

12 41. Preliminary Provisions (Reserved)

13 43. Critical Incident Stress Management

14 CHAPTER 41

15 PRELIMINARY PROVISIONS

16 (Reserved)

17 CHAPTER 43

18 CRITICAL INCIDENT STRESS MANAGEMENT

1 Sec.

2 4301. Definitions.

3 4302. Confidential communications.

4 § 4301. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Crisis response services." Consultation, risk assessment,
9 referral and onsite crisis intervention services provided by a
10 critical incident stress management team to a law enforcement
11 officer who has employed the use of deadly force in the course
12 and scope of the officer's employment.

13 "Critical incident stress management team member." An
14 individual specially trained to provide crisis response services
15 as a member of a police organization crisis response team that
16 holds membership in the Commonwealth's critical incident stress
17 management network.

18 "Debriefing session." A session during which crisis response
19 services are rendered by a critical incident stress management
20 team member during or after the use of deadly force by a law
21 enforcement officer.

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

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

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

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

28 (4) A Capitol Police officer.

29 (5) A Department of Conservation and Natural Resources
30 ranger.

1 (6) A drug enforcement agent of the Office of Attorney
2 General whose principal duty is the enforcement of the drug
3 laws of this Commonwealth and a special agent of the Office
4 of Attorney General whose principal duty is the enforcement
5 of the criminal laws of this Commonwealth.

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

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

10 (9) Any sheriff or deputy sheriff.

11 § 4302. Confidential communications.

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

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

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

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

26 (3) The law enforcement officer who received crisis
27 response services is deceased and the surviving spouse or the
28 executor or administrator of the estate of the deceased law
29 enforcement officer gives express consent.

30 (4) The law enforcement officer who received crisis

1 response services voluntarily testifies, in which case the
2 critical incident stress management team member may be
3 compelled to testify on the same subject.

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

8 (6) The communication or advice pertains or is related
9 to any criminal act.

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