

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 REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 16, 2009

AN ACT

1 Amending Title 44 (~~Law and Justice~~) 42 (JUDICIARY AND JUDICIAL PROCEDURE) of the Pennsylvania Consolidated Statutes, providing for confidential communications to a critical incident stress management team member by law enforcement officers.



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

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



PART IV

LAW ENFORCEMENT

Chapter

~~41. Preliminary Provisions (Reserved)~~

~~43. Critical Incident Stress Management~~

CHAPTER 41

PRELIMINARY PROVISIONS

(Reserved)

17

1 CHAPTER 43

2 CRITICAL INCIDENT STRESS MANAGEMENT

3 Sec.

4 4301. Definitions.

5 4302. Confidential communications.

6 § 4301. Definitions.

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

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

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

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

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

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

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

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

30 (4) A Capitol Police officer.

1 ~~(5) A Department of Conservation and Natural Resources~~  
2 ~~ranger.~~

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

8 ~~(7) Any member of a port authority or other authority~~  
9 ~~police department.~~

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

12 ~~(9) Any sheriff or deputy sheriff.~~

13 SECTION 1. TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED  
14 STATUTES IS AMENDED BY ADDING A SECTION TO READ:

15 ~~§ 4302~~ 5950. Confidential communications.

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

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

25 ~~(1) The communication or advice indicates clear and~~  
26 ~~present danger to the law enforcement officer who receives~~  
27 ~~crisis response services or to other persons.~~

28 ~~(2) The law enforcement officer who received crisis~~  
29 ~~response services gives express consent to the testimony.~~

30 ~~(3) The law enforcement officer who received crisis~~

1 response services is deceased and the surviving spouse or the  
2 executor or administrator of the estate of the deceased law  
3 enforcement officer gives express consent.

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

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

12 (6) The communication or advice pertains or is related  
13 to any criminal act.

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

17 "CRISIS RESPONSE SERVICES." CONSULTATION, RISK ASSESSMENT,  
18 REFERRAL AND ONSITE CRISIS INTERVENTION SERVICES PROVIDED BY A  
19 CRITICAL INCIDENT STRESS MANAGEMENT TEAM TO:

20 (1) A LAW ENFORCEMENT OFFICER WHO HAS EMPLOYED THE USE  
21 OF DEADLY FORCE IN THE COURSE AND SCOPE OF THE OFFICER'S  
22 EMPLOYMENT;

23 (2) A FIREFIGHTER;

24 (3) A FIRST RESPONDER; OR

25 (4) A CORRECTIONS OFFICER OF THE COMMONWEALTH OR A  
26 POLITICAL SUBDIVISION.

27 "CRITICAL INCIDENT STRESS MANAGEMENT TEAM MEMBER." AN  
28 INDIVIDUAL SPECIALLY TRAINED TO PROVIDE CRISIS RESPONSE SERVICES  
29 AS A MEMBER OF A POLICE ORGANIZATION CRISIS RESPONSE TEAM THAT  
30 HOLDS MEMBERSHIP IN THE COMMONWEALTH'S CRITICAL INCIDENT STRESS

1 MANAGEMENT NETWORK.

2 "DEBRIEFING SESSION." A SESSION DURING WHICH CRISIS RESPONSE  
3 SERVICES ARE RENDERED BY A CRITICAL INCIDENT STRESS MANAGEMENT  
4 TEAM MEMBER DURING OR AFTER THE USE OF DEADLY FORCE BY A LAW  
5 ENFORCEMENT OFFICER.

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

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

10 "LAW ENFORCEMENT OFFICER." ANY OF THE FOLLOWING:

11 (1) A MEMBER OF THE PENNSYLVANIA STATE POLICE.

12 (2) ANY ENFORCEMENT OFFICER OR INVESTIGATOR EMPLOYED BY  
13 THE PENNSYLVANIA LIQUOR CONTROL BOARD.

14 (3) A PAROLE AGENT, ENFORCEMENT OFFICER AND INVESTIGATOR  
15 OF THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.

16 (4) A CAPITOL POLICE OFFICER.

17 (5) A DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
18 RANGER.

19 (6) A DRUG ENFORCEMENT AGENT OF THE OFFICE OF ATTORNEY  
20 GENERAL WHOSE PRINCIPAL DUTY IS THE ENFORCEMENT OF THE DRUG  
21 LAWS OF THIS COMMONWEALTH AND A SPECIAL AGENT OF THE OFFICE  
22 OF ATTORNEY GENERAL WHOSE PRINCIPAL DUTY IS THE ENFORCEMENT  
23 OF THE CRIMINAL LAWS OF THIS COMMONWEALTH.

24 (7) ANY MEMBER OF A PORT AUTHORITY OR OTHER AUTHORITY  
25 POLICE DEPARTMENT.

26 (8) ANY POLICE OFFICER OF A COUNTY, CITY, BOROUGH, TOWN  
27 OR TOWNSHIP.

28 (9) ANY SHERIFF OR DEPUTY SHERIFF.

29 (10) A MEMBER OF THE PENNSYLVANIA FISH COMMISSION.

30 (11) A PENNSYLVANIA WILDLIFE CONSERVATION OFFICER.

1           (12) A MEMBER OF A CAMPUS POLICE FORCE WITH THE POWER TO  
2 ARREST UNDER SECTION 2416 OF THE ACT OF APRIL 9, 1929  
3 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.  
4 AS USED IN THIS PARAGRAPH, THE TERM "CAMPUS POLICE" HAS THE  
5 MEANING GIVEN IN SECTION 302 OF THE ACT OF NOVEMBER 29, 2004  
6 (P.L.1383, NO.180), KNOWN AS THE UNIFORM CRIME REPORTING ACT.

7           (13) A MEMBER OF THE FORT INDIANTOWN GAP POLICE FORCE.

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