

MEETING AGENDA

***UTAH SUPREME COURT ADVISORY COMMITTEE
ON THE RULES OF EVIDENCE***

**Matheson Courthouse
450 South State Street
Council Room (N301)**

**January 9, 2018
5:15 p.m. to 6:45 p.m.**

Mr. John Lund, Presiding

Light dinner will be served

<u>MEMBER PRESENT</u> Hon. Matthew Bates Ms. Tanielle Brown Ms. Deborah Bulkeley Ms. Nicole Salazar-Hall Mr. Mathew Hansen Mr. Ed Havas Mr. Chris Hogle Mr. John Lund Hon Linda Jones Hon. David Mortensen Mr. Terry Rooney Ms. Lacey Singleton Ms. Michalyn Steele Hon. Vernice Trease Ms. Teresa Welch Mr. Dallas Young Mr. Adam Alba	<u>GUESTS PRESENT</u>
<u>MEMBERS EXCUSED</u>	<u>STAFF PRESENT</u> Ms. Cathy Dupont Ms. Nancy Merrill Mr. Richard Schwermer Ms. Jacey Skinner

1. Welcome & Approval of Minutes (11/14/17) (*attached*).....*John Lund*

2. Report on meeting with the Supreme Court.....*John Lund & Rick Schwermer*
3. First Responder Privilege (*attached*).....*Judge Matt Bates*
4. Other Business.....*Mr. John Lund*

TAB 1

**UTAH SUPREME COURT ADVISORY COMMITTEE
ON THE RULES OF EVIDENCE**

MEETING MINUTES

**Tuesday – November 14, 2017
5:15 p.m.
Council Room**

Mr. John Lund, Presiding

<p><u>MEMBER PRESENT</u> Hon. Matthew Bates Ms. Tenielle Brown Ms. Deborah Bulkeley Ms. Nicole Salazar-Hall Mr. Mathew Hansen Mr. Ed Havas Mr. Chris Hogle Mr. John Lund Hon Linda Jones Hon. David Mortensen Mr. Terry Rooney Ms. Teresa Welch Mr. Dallas Young</p>	<p><u>GUESTS PRESENT</u></p>
<p><u>MEMBERS EXCUSED</u> Mr. Adam Alba Ms. Lacey Singleton Ms. Michalyn Steele</p>	<p><u>STAFF PRESENT</u> Ms. Nancy Merrill Mr. Richard Schwermer</p>

1. WELCOME AND APPROVAL OF MINUTES: (Mr. John Lund)

Mr. Lund welcomed everyone to the meeting and welcomed Ms. Salazar-Hall and Mr. Young to the Evidence Advisory Committee. The following correction was made to the previous minutes:

- Tab 4- the name of Heather White’s law firm reads: Snow Christensen & Martineau

Motion: Linda Jones moved to approve the amended minutes from the Evidence Advisory Committee meeting held on September 26, 2017. Ed Havas seconded the motion. The motion

carried unanimously.

2. Rule 504 Committee Note (attached)

Mr. Lund reported to the Committee that he and Mr. Schwermer presented the latest version of Rule 504 to the Supreme Court. He noted that the Supreme Court offered guidance on several sections of the proposed rule. After further discussion the Committee agreed to edit the following sections and present a new draft to the Supreme Court:

- Section 6 (C) Clients Representative will read “provides assistance to the client that is reasonably necessary to facilitate the client’s confidential communications”
- Section 6 (D) strike “close family member”

Motion: Chris Hogle made a motion to recommend Rule 504 including the edits to the Supreme Court. Tanielle Brown seconded the motion. The motion passed unanimously.

The Committee discussed the Committee Note for Rule 504 and agreed to make the following edits:

- Paragraph 1, after “interpreted” add the language, “ against an objective standard”
- Paragraph 1, strike the following two sentences, “Toward this end, an objective standard and examples of conditions that might warrant having a facilitator are included in the amendment as guidance. These examples are not elusive.”
- Paragraph 1 the last sentence will read, “...not hiding from discovery or **making it admissible**, communications not legitimately deserving of such protection.”

Motion: Teresa Welch made a motion to recommend the Committee Note for Rule 504 including the edits to the Supreme Court. Deborah Bulkeley seconded the motion. The motion passed unanimously.

3. First Response Privilege Project

The Committee agreed to address the first responder privilege project at the next meeting.

4. Eyewitness Identification Rule (attached)

Ms. Jones reviewed the changes that the subcommittee made to the Eyewitness Rule. After further discussion the Committee considered several changes to consider throughout the rule.

- **(b) Admissibility in General:** the first sentence will read, “ In cases where eyewitness identification is contested, the court shall exclude the evidence if no reasonable juror **properly** instructed and applying the factors in the subsection (b), could find the eyewitness identification reliable.
- (2) (D) Strike the last sentence and add a separate subsection with the possible following language, “whether the show up was reasonably necessary to establish probable cause”
- (C)(1) (A) strike “or Blinded Procedures”

- (3) change “(1) and (2)” to “(B) and (C)”

Ms. Jones will note the edits and email them to Mr. Schwermer for a final draft to propose to the Supreme Court.

Motion: Judge Mortensen made a motion to recommend the Eyewitness Rule to the Supreme Court. Terry Rooney seconded the motion. The motion passed unanimously.

The Committee will address the Committee Note after the Supreme Court reviews the draft of the Rule.

5. Discussion of Committee Note Updates

The Committee will address this item at the next meeting.

6. Other Business

Next Meeting:

January 9, 2017
5:15 p.m.
AOC, Council Room

TAB 2

Rule 506. Physician and Mental Health Therapist-Patient.

(a) Definitions.

(1) "Patient" means a person who consults or is examined or interviewed by a physician, ~~or~~ mental health therapist, or individual receiving peer support services, support services from a Peer Support Team Member.

(2) "Physician" means a person licensed, or reasonably believed by the patient to be licensed, to practice medicine in any state.

(3) "Mental health therapist" means a person who

(A) is or is reasonably believed by the patient to be licensed or certified in any state as a physician, psychologist, clinical or certified social worker, marriage and family therapist, advanced practice registered nurse designated as a registered psychiatric mental health nurse specialist, or professional counselor; and

(B) is engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction.

(4) "Peer Support Team Member" means a person who has successfully completed a peer support training program in peer support skills as approved by Peace Officer Standards and Training Division and has been designated by that person's employing agency (?) as part of a peer support team. Peer Support Team Member does not include a person who was a witness or a party to an incident connected with Peer Support Services.

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Comment [DY1]: It seems there should be identification of who can designate someone as a Peer Support Team Member.

(5) "Peer Support Services" means ...?

(b) **Statement of the Privilege.** A patient has a privilege, during the patient's life, to refuse to disclose and to prevent any other person from disclosing information that is communicated in confidence to a physician, ~~or~~

mental health therapist, or Peer Support Team Member for the purpose of diagnosing or treating the patient or providing peer support services. The privilege applies to:

- (1) diagnoses made, treatment provided, or advice given by a physician or mental health therapist;
- (2) information obtained by examination of the patient; and
- (3) information transmitted among a patient, a physician or mental health therapist, and other persons who are participating in the diagnosis or treatment under the direction of the physician or mental health therapist. Such other persons include guardians or members of the patient's family who are present to further the interest of the patient because they are reasonably necessary for the transmission of the communications, or participation in the diagnosis and treatment under the direction of the physician or mental health therapist.

(4) information transmitted among persons participating in peer support services, including group ~~therapy~~ sessions.

(c) Who May Claim the Privilege. The privilege may be claimed by the patient, or the guardian or conservator of the patient. The person who was the physician or mental health therapist at the time of the communication is presumed to have authority during the life of the patient to claim the privilege on behalf of the patient.

(d) Exceptions. No privilege exists under paragraph (b) in the following circumstances:

(1) Condition as Element of Claim or Defense. For communications relevant to an issue of the physical, mental, or emotional condition of the patient:

- (A) in any proceeding in which that condition is an element of any claim or defense, or

(B) after the patient's death, in any proceedings in which any party relies upon the condition as an element of the claim or defense;

(2) Hospitalization for Mental Illness. For communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the mental health therapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization; and

(3) Court Ordered Examination. For communications made in the course of, and pertinent to the purpose of, a court-ordered examination of the physical, mental, or emotional condition of a patient, whether a party or witness, unless the court in ordering the examination specifies otherwise.

(4) Specific Instances of Peer Support Services. For information received by a Peer Support Team Member that is indicative of actual or suspected child neglect or abuse, or indicative that a person receiving peer support is a clear and immediate danger to the person's self or others, or indicative of any criminal conduct that would trigger mandatory reporting requirements under the law involving the person receiving Peer Support Services.

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PUBLIC SAFETY PEER COUNSELING PROVISIONS

2018 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill creates provisions for peer support and counseling services within public safety agencies.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for the creation of teams to provide peer support and counseling services within public safety agencies;
- ▶ requires that members of the peer support team receive training in accordance with POST guidelines; and
- ▶ prohibits the release of information obtained through peer counseling except in specified circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-5-901, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-5-901** is enacted to read:

78B-5-901. Public safety peer counseling disclosures.

(1) This part is known as "Public Safety Peer Counseling Disclosures."

(2) As used in this chapter:

(a) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer,

33 firefighter, emergency medical service or rescue provider and a peer support team member.

34 (b) "Emergency medical service provider or rescue unit peer support team member"

35 means a person who is:

36 (i) an emergency medical service provider as defined in Section 26-8a-102, a regular or
37 volunteer member of a rescue unit acting as an emergency responder as defined in Section
38 53-2a-502, or another person who has been trained in peer support skills; and

39 (ii) designated by the chief executive of an emergency medical service agency or the
40 chief of a rescue unit as a member of an emergency medical service provider's peer support
41 team or as a member of a rescue unit's peer support team.

42 (c) "Law enforcement or firefighter peer support team member" means a person who
43 is:

44 (i) a peace officer, civilian employee, or volunteer member of a law enforcement
45 agency, a regular or volunteer member of a fire department, or another person who has been
46 trained in peer support skills; and

47 (ii) designated by the commissioner of the Department of Public Safety, the executive
48 director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member
49 of a law enforcement agency's peer support team or a fire department's peer support team.

50 (d) "Trained" means a person who has successfully completed a peer support training
51 program approved by Peace Officer Standards and Training Division.

52 (3) (a) A law enforcement or firefighter peer support team member may not be
53 compelled to provide information or be examined during a deposition or trial without the
54 consent of the person to whom the peer support team member has provided services regarding
55 any communication made by the person to the peer support team member under the
56 circumstances described in Subsection (5).

57 (b) A peer support services provider may not be examined or compelled to provide
58 information regarding peer support communications without the consent of the individual
59 receiving the peer support services.

60 (c) A person who has participated in psychotherapy conducted under the supervision of
61 a person authorized by law to conduct therapy, including group therapy sessions, may not be
62 examined concerning any information disclosed during the course of the therapy without the
63 consent of the person who is the subject of the requested testimony.

64 (4) (a) An emergency medical service provider or rescue unit peer support team
65 member may not be examined or compelled to provide information without the consent of the
66 person to whom peer support services have been provided as to any communication made by
67 the person to the peer support team member under the circumstances described in Subsection
68 (5).

69 (b) A recipient of peer support services may not be examined or compelled to provide
70 information regarding peer support communications without the consent of the individual
71 receiving the peer support services.

72 (5) The provisions of Subsections (3) and (4) apply only to communications made
73 during individual interactions conducted by a peer support team member who is:

74 (a) acting in the member's capacity as a law enforcement or firefighter peer support
75 team member or an emergency medical service provider or rescue unit peer support team
76 member; and

77 (b) functioning within the written peer support guidelines that are in effect for the
78 person's respective law enforcement agency, fire department, emergency medical service
79 agency, or rescue unit.

80 (6) This section does not apply in cases in which:

81 (a) a law enforcement or firefighter peer support team member or emergency medical
82 service provider or rescue unit peer support team member was a witness or a party to an
83 incident that prompted the delivery of peer support services;

84 (b) information received by a peer support team member is indicative of actual or
85 suspected child abuse, or actual or suspected child neglect;

86 (c) the person receiving peer support is a clear and immediate danger to the person's
87 self or others;

88 (d) there is reasonable cause to believe that the person receiving peer support has a
89 mental illness and, due to the mental illness, is an imminent threat to the person's self or others,
90 or is disabled; or

91 (e) the peer support team member has reasonable cause to believe there is information
92 indicative of any criminal conduct involving the individual receiving the peer support services.

Alabama

Does not appear to have one.

Alaska

Does not appear to have one.

Arizona

ARS § 38-1111. Critical incident stress management team member; privilege; exceptions; definitions

- A. Except as provided in subsection B, a critical incident stress management team member who, in the course of the member's response to a critical incident at the request of the member or member's agency, acquires information secretly and in confidence from a designated person shall not be compelled to disclose that information in a legal proceeding, trial or investigation before any agency of this state or a political subdivision of this state.
- B. Subsection A does not apply if:
 1. The communication or advice indicates clear and present danger to the designated person who received crisis response services or to other persons.
 2. The designated person who received crisis response services gives express consent to the testimony.
 3. The communication or advice is made during the course of a criminal investigation.
 4. The designated person who received crisis response services voluntarily testifies, in which case the critical incident stress management team member may be compelled to testify on the same subject.
 5. A breach of department policy exists and that breach amounts to a violation of laws that are normally enforced by law enforcement.
- C. For the purposes of this section:
 1. "Crisis response services" means consultation, risk assessment, referral and onsite crisis intervention services provided by a critical incident stress management team to a designated person.
 2. "Critical incident stress management team member" means an individual who has completed training through a recognized organization that delivers critical incident stress management training and who is part of a law enforcement, probation, firefighter or emergency medical provider crisis response team.
 3. "Department" means the branch of government in which a designated person is employed.
 4. "Designated person" means an emergency medical provider, firefighter or law

enforcement officer .

5. "Emergency medical provider" means municipal or state emergency medical services personnel.
6. "Firefighter" means a municipal or state firefighter.
7. "Law enforcement officer" means:
 - (a) An individual who is certified by the Arizona peace officer standards and training board, other than a person employed by a multi-county water conservation district.
 - (b) A detention officer or correction officer, other than a probationary employee, who is employed by this state or a political subdivision of this state.

Arkansas

§ 16-40-106. Privileged communications made to a certified peer support member by an emergency responder

- (a) As used in this section:
 - (1) "Certified peer support member" means a law enforcement officer, firefighter, or emergency medical technician of an emergency service agency or entity who has received training in critical incident stress management and who is certified as a peer support member by the Arkansas Crisis Response Team to provide emotional or moral support to an emergency responder who needs emotional or moral support as a result of job-related stress or an incident in which the emergency responder was involved while acting in his or her official capacity; and
 - (2) "Peer support event" means any debriefing, defusing, or counseling session conducted by a certified peer support member that involves the emotional or moral support of an emergency responder who needs emotional or moral support as a result of job-related stress or an incident in which the emergency responder was involved while acting in his or her official capacity.
- (b)
 - (1) A certified peer support member shall not be compelled, without the consent of the emergency responder making the communication, to testify or in any way disclose the contents of any communication made to the certified peer support member by the emergency responder while engaged in a peer support event.
 - (2) The privilege under subdivision (b)(1) of this section only applies when the communication was made to the certified peer support member during the course of an actual peer support event.

- (c) The privilege under subdivision (b)(1) of this section does not apply if:
- (1) The certified peer support member was an initial emergency service responder, a witness, or a party to the incident that prompted the providing of the peer support event to the emergency responder;
 - (2) A communication reveals the intended commission of a crime or harmful act and the disclosure is determined to be necessary by the certified peer support member to protect any person from a clear, imminent risk of serious mental or physical harm or injury or to forestall a serious threat to the public safety; or
 - (3) A crime has been committed and the crime is divulged to the certified peer support member.
- (d) A certified peer support member who knowingly reveals the contents of a communication privileged under this section or any person who knowingly threatens, intimidates, or forcibly compels, or attempts to threaten, intimidate, or forcibly compel a certified peer support member to disclose the contents of a privileged communication upon conviction is guilty of a Class B misdemeanor.

California

Does not appear to have one.

Colorado

C.R.S. §13-90-107(1)(e) Who may not testify without consent - definitions

A law enforcement or firefighter peer support team member shall not be examined without the consent of the person to whom peer support services have been provided as to any communication made by the person to the peer support team member under the circumstances described in subsection (1)(m)(III) of this section; nor shall a recipient of peer support services be examined as to any such communication without the recipient's consent.

(I.5) An emergency medical service provider or rescue unit peer support team member shall not be examined without the consent of the person to whom peer support services have been provided as to any communication made by the person to the peer support team member under the circumstances described in subsection (1)(m)(III) of this section; nor shall a recipient of peer support services be examined as to any such communication without the recipient's consent.

(II) For purposes of this paragraph (m):

(A) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting with a peer support team member.

(A.5) "Emergency medical service provider or rescue unit peer support team member" means an emergency medical service provider, as defined in section 25-3.5-103(8), C.R.S., a regular or volunteer member of a rescue unit, as defined in section 25-3.5-103(11), C.R.S., or other person who has been trained in peer support skills and who is officially designated by the supervisor of an emergency medical service agency as defined in section 25-3.5-103 (11.5), C.R.S., or a chief of a rescue unit as a member of an emergency medical service provider's peer support team or

rescue unit's peer support team.

(B) "Law enforcement or firefighter peer support team member" means a peace officer, civilian employee, or volunteer member of a law enforcement agency or a regular or volunteer member of a fire department or other person who has been trained in peer support skills and who is officially designated by a police chief, the chief of the Colorado state patrol, a sheriff, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(III) The provisions of this subsection (1)(m) apply only to communications made during interactions conducted by a peer support team member:

(A) Acting in the person's official capacity as a law enforcement or firefighter peer support team member or an emergency medical service provider or rescue unit peer support team member; and

(B) Functioning within the written peer support guidelines that are in effect for the person's respective law enforcement agency, fire department, emergency medical service agency, or rescue unit.

(IV) This subsection (1)(m) does not apply in cases in which:

(A) A law enforcement or firefighter peer support team member or emergency medical service provider or rescue unit peer support team member was a witness or a party to an incident which prompted the delivery of peer support services;

(B) Information received by a peer support team member is indicative of actual or suspected child abuse, as described in section 18-6-401 ; actual or suspected child neglect, as described in section 19-3-102 ; or actual or suspected crimes against at-risk persons, as described in section 18-6.5-103 ;

(C) Due to alcohol or other substance intoxication or abuse, as described in sections 27-81-111 and 27-82-107, C.R.S., the person receiving peer support is a clear and immediate danger to the person's self or others;

(D) There is reasonable cause to believe that the person receiving peer support has a mental health disorder and, due to the mental health disorder, is an imminent threat to himself or herself or others or is gravely disabled as defined in section 27-65-102 ; or

(E) There is information indicative of any criminal conduct.

Connecticut

Does not appear to have one.

Delaware

§ 4319. Confidential communications involving first responders

(a) For purposes of this section:

- (1) "Critical incident" means a situation or incident which, during the course of his or her duties, causes, or may cause, a first responder to experience unusually strong negative emotional or physical stress. "Critical incident" includes, but is not limited to, any encounter which may result in the death of or serious injury to another person or the imminent potential of such death or serious bodily injury, fatal motor vehicle

accidents, child abuse investigations, death investigations and large scale man-made or natural disasters.

- (2) "Critical incident stress management services" means consultation, risk assessment, education, intervention, and other crisis intervention services provided by a critical incident stress management team to a first responder prior to, during or after a critical incident.
 - (3) "Critical incident stress management team" or "CISM team" means a team composed of members of a state, county or municipal law enforcement, fire or emergency medical agency that is trained, in accordance with standards established by a nationally accredited critical incident stress management organization or network and recognized by the Council on Police Training, to assist and provide support to a first responder who has been involved in a critical incident that may affect, or has affected, the person's work performance or general well-being.
 - (4) "Critical incident stress management team member" means an individual who is specially trained to provide critical incident stress management services and meets the requirements of a nationally accredited critical incident stress management organization or network which has been recognized by the Council on Police Training and has been approved by the Colonel or Chief of the police, fire or emergency medical services agency of which the individual is a member and has been approved to function as a CISM team member prior to and at the time the counseling takes place.
 - (5) "First responders" shall mean federal, state and local law-enforcement officers, fire, and emergency medical services personnel, hazardous materials response team members, 911 dispatchers, or any individual who is responsible for the protection and preservation of life, property, and evidence, and has been sent or directed to respond to a request for assistance as a result of a critical incident.
 - (6) "Law-enforcement officer" means a police officer as defined in § 9200 of Title 11.
 - (7) "Participant" means an individual who participates either in a group or individual critical incident stress management team service.
- (b) Except as provided in subsection (d) of this section, all proceedings, communications and records, including, but not limited to, any information acquired by a critical incident stress management team, or critical incident management stress management team member, from a first responder who has, or is obtaining, assistance from the team, or team member, is confidential and is not subject to disclosure through compulsory legal process or otherwise discoverable or admissible in evidence in any action, including but not limited to, any legal proceeding, trial or investigation unless the confidentiality is waived by the affected first responder.
- (c) Except as provided under subsection (d) of this section, a CISM team member who is conducting a critical incident stress management counseling service and informs the participant and/or first responder that the service is being conducted pursuant to the

provisions in this section, shall not be compelled to disclose any communications made by the affected first responder in any action, including, but not limited to, any legal proceeding, trial or investigation, without the consent of the affected first responder.

- (d) Exceptions. - The privileges established under subsections (b) and (c) of this section are not applicable if:
- (1) The communication indicates an intent to engage in conduct likely to result in imminent death or serious physical injury to the first responder who received critical incident stress management services or another individual;
 - (2) The first responder who obtained critical incident stress management services expressly waives the privilege or gives consent to disclosure of the privileged communication;
 - (3) The first responder who obtained critical incident stress management services is deceased and the surviving spouse or the executor or administrator of the estate of the deceased first responder expressly waives the privilege or gives consent to disclosure of the privileged communications; or
 - (4) The first responder who received critical incident stress management services sought or obtained the services to enable or aid anyone to commit or plan to commit what the first responder who received critical incident stress management services knew, or reasonably should have known, was a crime or fraud or mental or physical injury to the first responder who received critical incident stress management services or another individual.
- (e) Information otherwise available from the original source shall not be immune from discovery or use in any civil or criminal action merely because the information was presented at a time the first responder obtained critical incident stress management services if the testimony sought is otherwise permissible and discoverable.

Georgia

OCGA § 24-5-510. Peer Counselors

- (a) As used in this Code section, the term:
- (1) 'Client' means a law enforcement employee or a law enforcement officer's immediate family.
 - (2) 'Immediate family' means the spouse, child, stepchild, parent, or stepparent.
 - (3) 'Peer counselor' means an employee of a law enforcement agency who has received training to provide emotional and moral support to a client and was designated by a sheriff, police chief, or other head of a law enforcement agency to counsel clients.

- (b) Except as provided in subsection (c) of this Code section, communications between a client and a peer counselor shall be privileged. A peer counselor shall not disclose any such communications made to him or her and shall not be competent or compellable to testify with reference to any such communications in any court.
- (c) The privilege created by subsection (b) of this Code section shall not apply when:
- (1) The disclosure is authorized by the client, or if the client is deceased, by his or her executor or administrator, and if an executor or administrator is not appointed, by the client's next of kin;
 - (2) Compelled by court order;
 - (3) The peer counselor was an initial responding officer, witness, or party to an act that is the subject of the counseling;
 - (4) The communication was made when the peer counselor was not performing official duties; or
 - (5) The client is charged with a crime.
- (d) The privilege created by this Code section shall not be grounds to fail to comply with mandatory reporting requirements as set forth in Code Section 19-7-5 or Chapter 5 of Title 30, the 'Disabled Adults and Elder Persons Protection Act.'

Florida

Does not appear to have one.

Hawaii

Does not appear to have one.

Idaho

Does not appear to have one.

Illinois

Does not appear to have one.

Indiana

Does not appear to have one.

Iowa

Does not appear to have one. Section 622.10: “communications in professional confidence” includes “counselors” but does not define counselor.

Kansas

§ 60-473. Peer support counseling session communication privilege; emergency services personnel and law enforcement personnel

(a) For the purposes of this section:

- (1) "Emergency services personnel" means any employee or volunteer of an emergency services provider who is engaged in providing or supporting firefighting, dispatching services and emergency medical services.
- (2) "Emergency services provider" means any public employer that employs persons to provide firefighting, dispatching services and emergency medical services.
- (3) "Employee assistance program" means a program established by a law enforcement agency or emergency services provider to provide professional counseling or support services to employees of a law enforcement agency, emergency services provider or a professional mental health provider associated with a peer support team.
- (4) "Law enforcement agency" means any public agency that employs law enforcement officers.
- (5) "Law enforcement personnel" means a law enforcement officer, as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto, an employee or volunteer of a law enforcement agency.
- (6) "Peer support counseling session" means any session conducted by a peer support specialist that is called or requested in response to a critical incident or traumatic event involving the personnel of the law enforcement agency or emergency services provider.
- (7) "Peer support specialist" is a person:
 - (A) Designated by a law enforcement agency, emergency services provider, employee assistance program or peer support team leader to lead, moderate or assist in a peer support counseling session;
 - (B) who is a member of a peer support team; and

- (C) has received training in counseling and providing emotional and moral support to law enforcement officers or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.
- (8) "Peer support team" means a group of peer support specialists serving one or more law enforcement providers or emergency services providers.
- (b) Any communication made by a participant or peer support specialist in a peer support counseling session pursuant to this section, and any oral or written information conveyed in or as the result of the peer support counseling session, are confidential and may not be disclosed by any person participating in the peer support counseling session.
- (c) Any communication relating to a peer support counseling session made confidential under subsection (b) that is made between peer support specialists, between peer support specialists and the supervisors or staff of an employee assistance program, or between the supervisors or staff of an employee assistance program, is confidential and may not be disclosed.
- (d) The provisions of this section apply only to peer support counseling sessions conducted by a peer support specialist.
- (e) (1) The provisions of this section apply to all oral communications, notes, records and reports arising out of a peer support counseling session.
- (2) Any notes, records or reports arising out of a peer support counseling session shall not be public records and shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this paragraph shall expire on July 1, 2020, unless the legislature acts to reenact such provisions. The provisions of this paragraph shall be reviewed by the legislature prior to July 1, 2020.
- (f) Any communication made by a participant or peer support specialist in a peer support counseling session subject to this section, and any oral or written information conveyed in a peer support counseling session subject to this section, are not admissible in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. Communications and information made confidential under this section shall not be disclosed by the participants in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. The limitations on disclosure imposed by this subsection include disclosure during any discovery conducted as part of an adjudicatory proceeding.

- (g) Nothing in this section limits the discovery or introduction into evidence of knowledge acquired by any law enforcement personnel or emergency services personnel from observation made during the course of employment, or material or information acquired during the course of employment, that is otherwise subject to discovery or introduction into evidence.
- (h) This section does not apply to any:
- (1) Threat of suicide or criminal act made by a participant in a peer support counseling session, or any information conveyed in a peer support counseling session relating to a threat of suicide or criminal act;
 - (2) information relating to abuse of spouses, children or the elderly, or other information that is required to be reported by law;
 - (3) admission of criminal conduct;
 - (4) disclosure of testimony by a participant who received peer support counseling services and expressly consented to such disclosure; or
 - (5) disclosure of testimony by the surviving spouse or executor or administrator of the estate of a deceased participant who received peer support counseling services and such surviving spouse or executor or administrator expressly consented to such disclosure.
- (i) This section does not prohibit any communications between peer support specialists who conduct peer support counseling sessions, or any communications between peer support specialists and the supervisors or staff of an employee assistance program.
- (j) This section does not prohibit communications regarding fitness of an employee for duty between an employee assistance program and an employer.
- (k) This section shall be part of and supplemental to article 4 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

Cite as K.S.A. 60-473

Kentucky:

Does not appear to have one, but it could possibly be included under “individual who provides crisis response services as a member of the community”

Rule 506. Counselor-client privilege

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

- (A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;
- (B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;
- (C) A certified professional art therapist who is engaged to conduct art therapy under KRS 309.130 to 309.1399 ;
- (D) A licensed marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399 ;
- (E) A licensed professional clinical counselor or a licensed professional counselor associate as defined in KRS 335.500 ;
- (F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team under KRS 36.250to 36.270 ;
- (G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney under KRS 15.760 or a county attorney pursuant to KRS 69.350 ; and
- (H) A certified fee-based pastoral counselor as defined in KRS 335.600 who is engaged to conduct fee-based pastoral counseling under KRS

335.600 to 335.699.

- (2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.
 - (3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.
- (b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.
- (c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.
- (d) Exceptions. There is no privilege under this rule for any relevant communication:
- (1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.
 - (2) If the judge finds:
 - (A) That the substance of the communication is relevant to an essential issue in the case;
 - (B) That there are no available alternate means to obtain the substantial equivalent of the communication; and
 - (C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

West's Louisiana Statutes Annotated
Louisiana Code of Evidence (Refs & Annos)
Chapter 5. Testimonial Privileges (Refs & Annos)

LSA-C.E. Art. 518

Art. 518. Trained peer support member privilege

Currentness

A. (1) A trained peer support member shall not, without consent of the emergency responder making the communication, be compelled to testify about any communication made to the trained peer support member by the emergency responder while receiving peer support services. The trained peer support member shall be designated as such by the emergency service agency or entity, prior to the incident that results in receiving peer support services. The privilege only applies when the communication was made to the trained peer support member.

(2) The privilege does not apply to any of the following if:

(a) The trained peer support member was an initial responding emergency responder, a witness, or a party to the incident which prompted the delivery of peer support services to the emergency responder.

(b) A communication reveals the intended commission of a crime or harmful act and such disclosure is determined to be necessary by the trained peer support member to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety.

B. For purposes of this Section, a “trained peer support member” is an emergency responder or civilian volunteer of an emergency service agency or entity, who has received training in Critical Incident Stress Management to provide emotional and moral support to an emergency responder who needs those services as a result of an incident in which the emergency responder was involved while acting in his official capacity. A “trained peer support member” also includes a volunteer counselor or other mental health services provider who has been designated by the emergency service agency or entity to provide emotional and moral support and counseling to an emergency responder who needs those services as a result of an incident in which the emergency responder was involved while acting in his official capacity.

Credits

Added by [Acts 2003, No. 1137, § 1](#).

LSA-C.E. Art. 518, LA C.E. Art. 518

Current through the 2017 Second Extraordinary Session.

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title XVI. Public Health (Ch. 111-114)

Chapter 112. Registration of Certain Professions and Occupations (Refs & Annos)

M.G.L.A. 112 § 134

§ 134. Social workers; practice of social work by certain parties

Currentness

Nothing in [sections one hundred and thirty to one hundred and thirty-seven](#), inclusive, shall be construed to prevent qualified members of other professions or occupations such as licensed physicians, registered nurses, licensed practical nurses, licensed psychologists, members of the clergy, attorneys, clinical members of the American Association of Marriage and Family Counselors, school adjustment or school guidance counselors who are employed by recognized private educational institutions while performing those duties for which they are employed, registered occupational therapists or certified occupational therapist assistants who are certified by the American Occupational Therapy Association, certified rehabilitation counselors who are certified by the Commission on Rehabilitation Counselor Certification of the National Rehabilitation Counselors Association and the American Rehabilitation Counselors Association, from doing work of a social service nature; provided, however, that they do not hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of social work, or that they are licensed to practice social work or independent clinical social work.

Nothing in [sections one hundred and thirty to one hundred and thirty-seven](#), inclusive, shall prevent the practice of social work by students of social work or social work interns or persons preparing for the practice of social work under qualified supervision in a recognized educational institution or facility so long as they are designated by such titles as “social work student”, “social work trainee”, or “social work intern”, or others clearly indicating such training status.

Nothing in [sections one hundred and thirty to one hundred and thirty-seven](#), inclusive, shall prevent the practice of social work or the use of the official titles social worker or social work associate by individuals employed in state, county, or municipal governmental agencies, provided that such persons are performing those activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the agency in which they are employed.

A license to practice social work shall not be a requirement for qualification for civil service examinations nor shall it be a requirement for employment in any state, county, or municipal agency.

Credits

Added by St.1977, c. 818, § 2.

[Notes of Decisions \(1\)](#)

M.G.L.A. 112 § 134, MA ST 112 § 134

Current through Chapter 140, except Chapter 138, of the 2017 1st Annual Session

Massachusetts General Laws Annotated
Massachusetts Guide to Evidence (Refs & Annos)
Article V. Privileges and Disqualifications

MA Guide to Evidence § 507

Section 507. Social Worker-Client Privilege

Currentness

(a) Definitions. As used in this section, the following words shall have the following meanings:

(1) Client. A “client” is a person with whom a social worker has established a social worker-client relationship.

(2) Communications. “Communications” includes conversations, correspondence, actions, and occurrences regardless of the client's awareness of such conversations, correspondence, actions, and occurrences and any records, memoranda, or notes of the foregoing.

(3) [Reserved]

(4) Social Worker. As used in this section, a “social worker” is a social worker licensed pursuant to the provisions of [G. L. c. 112, § 132](#), or a social worker employed in a State, county, or municipal governmental agency.

(b) Privilege. A client shall have the privilege of refusing to disclose and of preventing a witness from disclosing any communication, wherever made, between said client and a social worker relative to the diagnosis or treatment of the client's mental or emotional condition. If a client is incompetent to exercise or waive such privilege, a guardian shall be appointed to act in the client's behalf under this section. A previously appointed guardian shall be authorized to so act.

(c) Exceptions. The privilege in Subsection (b) shall not apply to any of the following communications:

(1) if a social worker, in the course of making a diagnosis or treating the client, determines that the client is in need of treatment in a hospital for mental or emotional illness or that there is a threat of imminently dangerous activity by the client against the client, or another person, and on the basis of such determination discloses such communication either for the purpose of placing or retaining the client in such hospital; provided, however, that the provisions of this section shall continue in effect after the client is in said hospital, or placing the client under arrest or under the supervision of law enforcement authorities;

(2) if a judge finds that the client, after having been informed that the communications would not be privileged, has made communications to a social worker in the course of a psychiatric examination ordered by the court; provided, however, that such communications shall be admissible only on issues involving the client's mental or emotional condition and not as a confession or admission of guilt;

(3) in any proceeding, except one involving child custody, adoption, or adoption consent, in which the client introduces his or her mental or emotional condition as an element of a claim or defense, and the judge or presiding officer finds that it is more important to the interests of justice that the communication be disclosed than that the relationship between client and social worker be protected;

(4) in any proceeding after the death of a client in which the client's mental or emotional condition is introduced by any party claiming or defending through or as a beneficiary of the client as an element of the claim or defense, and the judge or presiding officer finds that it is more important to the interests of justice that the communication be disclosed than that the relationship between client and social worker be protected;

(5) in the initiation of proceedings under [G. L. c. 119, §§ 23\(a\)\(3\) and 24](#), or [G. L. c. 210, § 3](#), or to give testimony in connection therewith;

(6) in any proceeding whereby the social worker has acquired the information while conducting an investigation pursuant to [G. L. c. 119, § 51B](#);

(7) in any other case involving child custody, adoption, or the dispensing with the need for consent to adoption in which, upon a hearing in chambers, the judge, in the exercise of his or her discretion, determines that the social worker has evidence bearing significantly on the client's ability to provide suitable care or custody, and that it is more important to the welfare of the child that the communication be disclosed than that the relationship between client and social worker be protected; provided, however, that in such case of adoption or the dispensing with the need for consent to adoption, a judge shall determine that the client has been informed that such communication would not be privileged;

(8) in any proceeding brought by the client against the social worker and in any malpractice, criminal, or license revocation proceeding in which disclosure is necessary or relevant to the claim or defense of the social worker; or

(9) in criminal actions, such privileged communications may be subject to discovery and may be admissible as evidence, subject to applicable law.

Editors' Notes

NOTE

Subsections (a)(1)-(2). These subsections are taken nearly verbatim from [G. L. c. 112, § 135](#).

Subsection (a)(4). This subsection is taken nearly verbatim from [G. L. c. 112, §§ 135A and 135B](#). See [Bernard v. Commonwealth, 424 Mass. 32, 35 \(1996\)](#) (State police trooper employed as a peer counselor qualified as a social worker for purposes of this section).

Subsection (b). This subsection is taken nearly verbatim from [G. L. c. 112, § 135B](#). See [Commonwealth v. Pelosi, 441 Mass. 257, 261 n.6 \(2004\)](#) (characterizing records prepared by clients' social worker as privileged; privilege is not self-executing).

Subsections (c)(1)-(8). These subsections are taken nearly verbatim from [G. L. c. 112, § 135B](#).

The social worker-client privilege is set forth in [G. L. c. 112, § 135B](#). [General Laws c. 112, § 135A](#), addresses the general duty of confidentiality of certain social workers. See [Commonwealth v. Pelosi, 441 Mass. 257, 261 n.6 \(2004\)](#). The privilege is not self-executing. See [Commonwealth v. Oliveira, 438 Mass. 325, 331 \(2002\)](#).


Subsection (c)(9). This subsection is derived from [Commonwealth v. Dwyer, 448 Mass. 122, 145-146 \(2006\)](#) (establishing protocol in criminal cases governing access to and use of material covered by statutory privilege). See Introductory Note to Article V, Privileges and Disqualifications.

MA Evidence Guide § 507, MA R EVID § 507

Current with amendments received through November 1, 2017.

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 KeyCite Yellow Flag - Negative Treatment
Distinguished by [Com. v. Kartell](#), Mass.Super., December 13, 1999

424 Mass. 32
Supreme Judicial Court of Massachusetts,
Suffolk.

Gilbert M. BERNARD

v.

COMMONWEALTH & another¹

(and a companion case²).

Argued Sept. 5, 1996.

Decided Dec. 27, 1996.

State police trooper employed as peer counselor petitioned for protective order, alleging that social worker privilege applied to prevent trooper from testifying in domestic abuse prosecution about communications with defendant. The District Court, Suffolk County, denied request and ordered trooper to answer questions. Trooper appealed after being found in contempt for refusing to testify. The Supreme Judicial Court, [Greaney](#), J., denied petition and reported question of law. The Supreme Judicial Court, [Lynch](#), J., held that social worker privilege applied to a trooper who was employed by state to perform social work, even though trooper was not licensed social worker.

Question answered.

West Headnotes (3)

[1] Privileged Communications and Confidentiality

 Social workers

Social worker privilege applied in domestic abuse prosecution to defendant's communications with state police trooper employed as peer counselor, even though trooper was not licensed social worker; exception to licensing requirement for persons employed by governmental agencies applied. [M.G.L.A. c. 112, §§ 134, 135A, 135B](#).

[3 Cases that cite this headnote](#)

[2] Privileged Communications and Confidentiality

 Social workers

Social worker privilege applies to unlicensed governmental employees practicing social work. [M.G.L.A. c. 112, §§ 134, 135A, 135B](#).

[2 Cases that cite this headnote](#)

[3] Statutes

 Subject or purpose

Statutes relating to same subject matter should be read together to create harmonious whole consistent with legislative purpose.

[Cases that cite this headnote](#)

Attorneys and Law Firms

**1221 *32 [Timothy M. Burke](#), Needham, for Gilbert M. Bernard.

[Willie J. Davis](#), Boston, for Thomas Lloyd, Jr.

[Marguerite T. Grant](#), Assistant District Attorney (Kerry Ahern, Assistant District Attorney, with her), for the Commonwealth.

Before [WILKINS](#), C.J., and [ABRAMS](#), [LYNCH](#), [GREANEY](#) and [FRIED](#), JJ.

Opinion

[LYNCH](#), Justice.

Gilbert M. Bernard (petitioner), a State police trooper, petitioned a judge in the Cambridge Division of the District Court Department for a protective order pursuant to [Mass. R.Crim.P. 14\(a\)\(6\)](#), 378 Mass. 874 (1979).³ The petitioner asserted that his conversations with Trooper *33 Thomas Lloyd, Jr., the defendant in an underlying criminal case, were protected under [G.L. c. 112, § 135A](#) (1994 ed.), the statute governing privileged communication between social workers and clients. The judge denied the petitioner's request and ordered him to answer questions regarding his conversations with Lloyd.⁴ The petitioner refused and was found in

contempt. Proceedings in the District Court were stayed pending appeal.

The petitioner and Lloyd each petitioned a single justice of this court for relief pursuant to [G.L. c. 211, § 3](#) (1994 ed.). The single justice denied Lloyd's petition and reported to the full court the question “whether communications by Lloyd to [the petitioner], while the latter was engaged solely in providing peer counselling to Lloyd, are protected by the privilege established by [G.L. c. 112, § 135A](#), or the right established by [G.L. c. 112, § 135B](#) [1994 ed.]”

The District Court judge found the following facts.⁵ The petitioner joined the State police in 1974. From 1974 to 1987, the petitioner worked as a road trooper and later as an undercover narcotics officer. From 1987 to 1992, the petitioner worked part time as a peer counsellor for the State police and full time at a chemical-dependency treatment center in New Hampshire. *In 1992, the State police created the employee assistant unit (EAU), which provides employees and their dependents assistance through training, peer counselling, and professional referrals.*
****1222** From 1992 to 1995, the petitioner worked full time as a peer counsellor in the EAU. During that period, the petitioner counselled *over 400 people* in areas of marriage, schooling, substance abuse, and mental health.

The petitioner's social work training consisted mostly of on-the-job training, courses offered at the State police academy, and seminars. The petitioner did not hold a bachelor's ***34** degree, a degree in social work, nor was he a licensed social worker.

On March 3, 1995, *the petitioner received information about an alleged incident of domestic abuse involving Lloyd. The petitioner contacted Lloyd's commanding officer and arranged a meeting at the State police barracks in Holden.*

That afternoon, after Lloyd had met briefly with his superiors, the petitioner and Lloyd met in private. At that time the petitioner promised Lloyd, “that their conversations would be held in the strictest confidence and that he [the petitioner] would not breach that confidence unless waived.” *After the meeting Lloyd did not return to his patrol.*

[1] *Discussion.* As the single justice concluded, the petitioner is neither a “social worker,” a “licensed certified

social worker,” a “licensed social worker,” or a “licensed social work associate,” as those terms are defined in [G.L. c. 112, § 130](#) (1994 ed.).⁶ The petitioner also does not meet any of the exemptions from licensing requirements contained in [G.L. c. 112, § 131](#) (1994 ed.). His practice of social work, however, is permitted by the third paragraph of [G.L. c. 112, § 134](#), which provides for governmental employees as follows:

“Nothing in sections one hundred and thirty to one hundred and thirty-seven, inclusive, shall prevent the practice of social work or the use of the official titles social worker or social work associate by individuals employed in state, county or municipal governmental agencies, provided that such persons are performing those activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the agency in which they are employed.” Thus the statute carves out an exception to the licensing requirement so that qualified individuals, employed by governmental agencies, and acting within the scope of their ***35** employment, may practice social work and use the official title social worker without a license.⁷

[2] It follows from this exception that the social worker privileges created by [G.L. c. 112, §§ 135A and 135B](#), apply to unlicensed governmental employees practicing social work under the provisions of [G.L. c. 112, § 134](#). In 1985, the Legislature amended § 135 to read as follows:

“No social worker in any licensed category, including those in private practice, *and no social worker employed in a state, county or municipal governmental agency*, shall disclose any information he may have acquired from a person consulting him in his professional capacity or whom he has served in his professional capacity except ...” (emphasis added). St.1985, c. 524.

In 1989, the Legislature rewrote § 135, and adopted detailed provisions governing the creation of the privilege, the disclosure of privileged information, exceptions, and the rights of clients. St.1989, c. 535, § 1. These provisions were codified in [§§ 135A and 135B](#). The privilege now applies to “a social worker licensed pursuant to the provisions of section one hundred and thirty-two *or* a social worker employed in a state, county or municipal governmental agency” (emphasis added). [G.L. c. 112, § 135A](#).

****1223** It is clear, therefore, that §§ 135A and 135B explicitly apply the social worker privilege to unlicensed social workers employed by governmental agencies.

[3] Since the Legislature has authorized the practice of social work by unlicensed governmental agents (G.L. c. 112, § 134), there would be no reason not to apply the provisions of §§ 135A and 135B to such individuals especially when the phrase, “social worker employed in a state, county or municipal governmental agency,” mirrored language already used in G.L. c. 112, § 134. Statutes relating to the same subject matter should be read together to create a harmonious whole *36 consistent

with the legislative purpose. See *Casey v. Massachusetts Elec. Co.*, 392 Mass. 876, 881, 467 N.E.2d 1358 (1984), and cases cited. Furthermore, recognition of the social worker privilege for unlicensed social workers employed by the State is consistent with the Legislature's policy of permitting social work by such employees.

We answer the reported question in the affirmative.

All Citations

424 Mass. 32, 673 N.E.2d 1220

Footnotes

- 1 The Cambridge Division of the District Court Department of the Trial Court.
- 2 Thomas Lloyd, Jr. vs. Commonwealth.
- 3 [Rule 14\(a\)\(6\) of the Massachusetts Rules of Criminal Procedure](#), 378 Mass. 874 (1979), provides: “Upon a sufficient showing, the judge may at any time order that the discovery or inspection be denied, restricted, or deferred, or make such other order as is appropriate. The judge may alter the time requirements of this rule. The judge may, for cause shown, grant discovery to a defendant on the condition that the material to be discovered be available only to counsel for the defendant.”
- 4 The judge found that the petitioner was “not a licensed social worker nor a social worker employed in a state, county or municipal government nor a colleague, agent, or employee of a social worker, within the meaning of G.L. c. 112, [§] 135A, and therefore not entitled to withhold testimony under a claim of privilege pursuant to said statute.”
- 5 Where italicized, we have supplemented the judge's findings with testimony from the voir dire hearing.
- 6 [General Laws c. 112, § 130 \(1994 ed.\)](#), defines “social worker” as “an individual who by training and experience meets the requirement for licensing by the [Board of Registration of Social Workers] and is duly licensed to engage in the practice of social work in the commonwealth.”
- 7 [General Laws c. 112, § 130](#), defines “ [t]he practice of social work’ [as] rendering or offering to render professional service for any fee, monetary or otherwise, to individuals, families, or groups of individuals, which services involve the application of social work theory and methods in the prevention, treatment, or resolution of mental and emotional disorders or family or social dysfunctioning caused by physical illness, intrapersonal conflict, interpersonal conflict or environmental stress.”

Minnesota Statutes Annotated
Labor, Industry (Ch. 175-189)
Chapter 181. Employment
Protected Personnel Information

M.S.A. § 181.973

181.973. Public safety peer counseling and debriefing

Currentness

A person engaged in a public safety peer counseling or a public safety peer debriefing shall not, without the permission of the person being debriefed or counseled, be allowed to disclose any information or opinion which the peer group member or peer counselor has acquired during the process. However, this does not prohibit a peer counselor from disclosing information the peer counselor reasonably believes indicates that the person may be a danger to self or others, if the information is used only for the purpose of eliminating the danger to the person or others. Any information or opinion disclosed in violation of this paragraph is not admissible as evidence in any personnel or occupational licensing matter involving the person being debriefed or counseled.

For purposes of this section, “public safety peer counseling or debriefing” means a group process oriented debriefing session, or one-to-one contact with a peer counselor, held for peace officers, firefighters, medical emergency persons, dispatchers, or other persons involved with public safety emergency services, that is established by any agency providing public safety emergency services and is designed to help a person who has suffered an occupation-related trauma, illness, or stress begin the process of healing and effectively dealing with the person's problems or the use of the peer counselor for direction with referrals to better service these occupation-related issues. A “peer counselor” means someone so designated by that agency.

Credits

Laws 1995, c. 259, art. 1, § 38. Amended by Laws 2006, c. 260, art. 3, § 6, eff. July 1, 2006.

M. S. A. § 181.973, MN ST § 181.973

Current with laws of the 2017 Regular and First Special Sessions. The statutes are subject to change as determined by the Minnesota Revisor of Statutes. (These changes will be incorporated later this year.)

West's Annotated Mississippi Code
Title 13. Evidence, Process and Juries
Chapter 1. Evidence (Refs & Annos)
in General (Refs & Annos)

Miss. Code Ann. § 13-1-22.1

§ 13-1-22.1. Certified peer support member or peer support event; definitions; privileged communications

Currentness

(1) As used in this section, unless the context clearly indicates otherwise:

(a) “Certified peer support member” means a law enforcement officer, fireman or emergency medical technician of an emergency service agency or entity who has received training in critical incident stress management and who is certified as a peer support member by the State Board of Health or the Department of Public Safety to provide emotional and moral support to an emergency responder who needs those services as a result of job-related stress or an incident in which the emergency responder was involved while acting in his official capacity.

(b) “Peer support event” means any debriefing, defusing or counseling session conducted by a certified peer support member that involves the emotional or moral support of an emergency responder who needs those services as a result of job-related stress or an incident in which the emergency responder was involved while acting in his official capacity.

(2) A certified peer support member shall not be compelled, without the consent of the emergency responder making the communication, to testify or in any way disclose the contents of any communication made to the certified peer support member by the emergency responder while engaged in a peer support event. This privilege only applies when the communication was made to the certified peer support member during the course of an actual peer support event.

(3) The privilege shall not apply if:

(a) The certified peer support member was an initial emergency service responder, a witness or a party to the incident that prompted the providing of the peer support event to the emergency responder;

(b) A communication reveals the intended commission of a crime or harmful act and such disclosure is determined to be necessary by the certified peer support member to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety; or

(c) A crime has been committed and divulged.

(4) Any certified peer support member who reveals the contents of a privileged communication, or any person who threatens, intimidates, or in any way attempts to compel a certified peer support member to disclose the contents of a privileged communication, shall be guilty of a misdemeanor and shall be punished by a fine of not more than Five

Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

Credits

Added by [Laws 2006, Ch. 440, § 2, eff. July 1, 2006](#).

Miss. Code Ann. § 13-1-22.1, MS ST § 13-1-22.1

The Statutes and Constitution are current through the 2017 Regular and First Extraordinary Sessions.

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West's Montana Code Annotated
Title 37. Professions and Occupations (Refs & Annos)
Chapter 38.
Part 1.

MCA 37-38-106

37-38-106. Privileged communications--exceptions

Currentness

- (1) Certified behavioral health peer support specialists work in health care teams. Communication among team members that is essential for the supported individual's recovery must be defined and established by board rule.
- (2) A certified behavioral health peer support specialist may not disclose any information the peer support specialist acquires from an individual to whom the peer support specialist provides behavioral health peer support except:
 - (a) with the written consent of the individual or, in the case of the individual's death or mental incapacity, with the written consent of the individual's personal representative or guardian;
 - (b) when a communication that otherwise would be confidential reveals that the individual or another person is contemplating the commission of a crime or in the behavioral health peer support specialist's professional opinion reveals a threat of imminent harm to the individual or others;
 - (c) that if the individual is a minor and information acquired by the certified behavioral health peer support specialist indicates that the minor was the victim of a crime, the peer support specialist may be required to testify fully in relation to the information in any investigation, trial, or other legal proceeding in which the commission of that crime is the subject of inquiry;
 - (d) that if the individual or the individual's personal representative or guardian brings an action against a certified behavioral health peer support specialist for a claim arising out of the peer support specialist's professional relationship with the individual, the individual is considered to have waived any privilege;
 - (e) to the extent that the privilege is otherwise waived by the individual; and
 - (f) as may otherwise be required by law.

Credits

Enacted by [Laws 2017, ch. 127, § 5](#), eff. Oct. 1, 2017.

MCA 37-38-106, MT ST 37-38-106

Current through the 2017 session. Statutory changes are subject to classification and revision by the Code Commissioner. Court Rules in the Code are current with amendments received through May 1, 2017.

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West's Nevada Revised Statutes Annotated
Title 23. Public Officers and Employees (Chapters 281-289)
Undesignated Legislation (Refs & Annos)

N.R.S. AB 301, § 1

AB 301, § 1. Confidentiality of certain communications made
between parties during a peer support counseling session

Effective: May 27, 2017

[Currentness](#)

<2017 legislation subject to revision and classification by the Legislative Counsel Bureau>

1. Any communication made between parties during a peer support counseling session is confidential and must not be disclosed by any person participating in the peer support counseling session unless:

(a) The communication is any of the following:

(1) Any explicit threat of suicide;

(2) Any explicit threat of imminent and serious physical harm or death to a clearly identified or identifiable person;

(3) Any information relating to the abuse or neglect of a child, older person or vulnerable person, or any information that is required by law to be reported; or

(4) Any admission of criminal conduct;

(b) The law enforcement or public safety personnel who were a party to the communication waive the confidentiality of the communication; or

(c) A court of competent jurisdiction issues an order or subpoena requiring the disclosure of the communication.

2. This section:

(a) Applies to all oral communications, notes, records and reports arising out of a peer support counseling session. Any notes, records or reports arising out of a peer support counseling session are not public records.

(b) Does not prohibit any communications between counselors who conduct peer support counseling sessions, or any communications between counselors and the supervisors or staff of a peer support counseling or employee assistance program. Any such communications are confidential for purposes of this section.

(c) Does not limit the discovery or introduction into evidence of any knowledge acquired or observations made by any law enforcement or public safety personnel in the scope of their employment and outside of a peer support counseling session and which is otherwise subject to discovery or introduction into evidence.

3. A person who discloses a communication pursuant to paragraph (a), (b) or (c) of subsection 1 is not liable for any error or omission in such a disclosure.

4. A law enforcement or public safety agency is not liable for any disclosure made in violation of this section by any law enforcement or public safety personnel of the agency who participate in a peer support counseling session.

5. As used in this section:

(a) “Counselor” means a person who:

(1) Has received training in peer support counseling and in providing emotional and moral support to law enforcement or public safety personnel who have been involved in or exposed to emotionally traumatic experiences in the course of their employment; and

(2) Is designated by a law enforcement agency, public safety agency or employee assistance program to provide the services described in subparagraph (1).

(b) “Employee assistance program” means a program provided by a law enforcement or public safety agency to provide counseling services to its personnel through the use of law enforcement or public safety personnel who have received special training to act as peer support counselors.

(c) “Law enforcement or public safety personnel” includes, without limitation, peace officers, sheriffs' deputies, corrections officers, probation officers, firefighters, paramedics, emergency dispatchers or any other employee or volunteer reserve member of a law enforcement or public safety agency whose duties involve emergency response or criminal investigation.

(d) “Peer support counseling session” means any counseling formally provided through a peer support program between a counselor and one or more law enforcement or public safety personnel.

Credits

Added by [Laws 2017, c. 190, § 1, eff. May 27, 2017](#).

N. R. S. AB 301, § 1, NV ST AB 301, § 1

Current through the 79th Regular Session (2017) of the Nevada Legislature with all legislation operative or effective up to and including October 1, 2017 subject to change from the reviser of the Legislative Counsel Bureau.

End of Document

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Revised Statutes Annotated of the State of New Hampshire
Title XII. Public Safety and Welfare (Ch. 153 to 174) (Refs & Annos)
Chapter 153-a. Emergency Medical and Trauma Services (Refs & Annos)

N.H. Rev. Stat. § 153-A:17-a

153-A:17-a Critical Incident Intervention and Management.

Effective: June 6, 2013

[Currentness](#)

I. In this section:

(a) “Critical incident” means an event or events that result in acute or cumulative psychological stress or trauma to an emergency service provider as a result of response to the incident.

(b) “Critical incident stress” means an unusually strong emotional, cognitive, or physical reaction that has the potential to interfere with normal functioning and that results from the response to a critical incident or long-term occupational exposure to a series of critical incident responses over a period of time that are believed to be causing debilitating stress that is affecting an emergency service provider and his or her work performance or family situation. This may include, but is not limited to, physical and emotional illness, failure of usual coping mechanisms, loss of interest in the job, personality changes, or loss of ability to function.

(c) “Critical incident stress management” means a process of crisis intervention designed to assist emergency service providers in coping with the psychological trauma resulting from response to a critical incident.

(d) “Critical incident stress management and crisis intervention services” means consultation, counseling, debriefing, defusing, intervention services, management, prevention, and referral provided by a critical incident stress management team member.

(e) “Critical incident stress management team” or “team” means the group of one or more trained volunteers, including members of peer support groups organized by a unit of state, local, or county government who offer critical incident stress management and crisis intervention services following a critical incident or long term or continued, debilitating stress being experienced by emergency services providers and affecting them or their family situation.

(f) “Critical incident stress management team member” or “team member” means an emergency services provider, including any law enforcement officer, sheriff or deputy sheriff, state police officer, civilian law enforcement employee, firefighter, civilian fire department employee, and emergency medical personnel, specially trained to provide critical incident stress management and crisis intervention services as a member of an organized and registered team.

II. (a) Team members shall undergo and sustain certification standards set forth in guidelines established by the International Critical Incident Stress Foundation (ICISF) approved by the commissioner of the department of safety,

or a similar organization for which the commissioner shall not unreasonably withhold approval. The team shall be registered with ICISF, or a similar organization, and maintain training standards to date as required.

(b) All critical incident stress management team members, sworn or civilian, shall be designated by the police chief, sheriff, commander of the state police, fire chief, or director of emergency services.

III. (a) Any information divulged to the team or a team member during the provision of critical incident stress management and crisis intervention services shall be kept confidential and shall not be disclosed to a third party or in a criminal, civil, or administrative proceeding. Records kept by critical incident stress management team members are not subject to subpoena, discovery, or introduction into evidence in a criminal, civil, or administrative action. Except as provided in subparagraph (c), no person, whether critical incident stress management team member or team leader providing or receiving critical incident stress management and crisis intervention services, shall be required to testify or divulge any information obtained solely through such crisis intervention.

(b) The purpose of this section is to provide a consistent framework for the operation of critical incident stress management teams and their members. In any civil action against any individual, agency, or government entity, including the state of New Hampshire, arising out of the conduct of a member of such team, this section is not intended and shall not be admissible to establish negligence in any instance where requirements herein are higher than the standard of care that would otherwise have been applicable in such action under state law.

(c) A communication shall not be deemed confidential pursuant to this section if:

(1) The communication indicates the existence of a danger to the individual who receives critical incident stress management and crisis intervention services or to any other person or persons.

(2) The communication indicates the existence of past child abuse or neglect of the individual, abuse of an adult as defined by law, or family violence as defined by law.

(3) The communication indicates the existence of past or present acts constituting an intentional tort or crime, provided the applicable statute of limitation has not expired on the act indicated.

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N.H. Rev. Stat. § 153-A:17-a, NH ST § 153-A:17-a

Updated with laws current through Chapter 258 (End) of the 2017 Reg. Sess., not including changes and corrections made by the State of New Hampshire, Office of Legislative Services

New Jersey Statutes Annotated

Title 2a. Administration of Civil and Criminal Justice (Refs & Annos)

Subtitle 9. Evidence, Witnesses and Public Hearings

Chapter 84A. Rules of Evidence (Refs & Annos)

Article II. Privileges (Refs & Annos)

N.J.S.A. 2A:84A-22.17

2A:84A-22.17. Emergency assistance program; confidentiality of information exchanged between peer counselors and emergency services personnel; peer counselor privilege

Effective: January 17, 2014

[Currentness](#)

a. As used in this act:

“Emergency services personnel” means a person who is employed as a law enforcement officer, emergency medical service technician, firefighter, emergency communications operator or in some related occupation or profession, or who serves as a volunteer member of a fire department, duly incorporated fire or first aid company, volunteer emergency, ambulance or rescue squad association or organization and provides emergency services for a local governmental unit.

“Emergency services provider” means a local law enforcement agency, emergency medical services unit, fire department or force, emergency communications provider, volunteer fire department, duly incorporated fire or first aid company, volunteer emergency, ambulance or rescue squad association or organization or company which provides emergency services.

“Emergency assistance program” means a program established by an emergency services provider to provide peer counseling and support services to employees and volunteers who, while providing emergency services, have been involved in incidents which may produce personal or job-related depression, anxiety, stress or other psychological or emotional tensions, traumas, pressures or disorders. Such incidents may include, but not be limited to: an event involving the firing of a weapon; significant or serious bodily injury; death; a terroristic act; a hostage situation; or personal injury.

“Peer counselor” means a member of a law enforcement agency, emergency medical service unit, fire department or force, emergency communications provider, volunteer fire department, duly incorporated fire or first aid company, volunteer emergency, ambulance or rescue squad association or organization, an authorized representative of a collective bargaining unit or organization representing law enforcement officers or firefighters, or any private citizen designated by an emergency services provider to provide post traumatic counseling and support services for emergency services personnel.

b. Except as otherwise provided in subsection c. of this act:

(1) All information exchanged between a peer counselor and any emergency services personnel participating in an emergency assistance program shall be deemed confidential and shall not be disclosed to any other person; and

(2) A peer counselor shall be privileged against examination as a witness in any civil or criminal proceeding, or in any administrative or arbitration proceeding, with regard to the exchange of information that occurred in an emergency assistance program.

c. Nothing in this act shall be deemed to prohibit:

(1) A professional exchange of information between peer counselors, counseling supervisors and appropriately licensed or certified psychologists, social workers or mental health professionals designated by, or contracted by, the emergency services provider for the exclusive purpose of providing for the care and treatment of any emergency services personnel who have been involved in incidents which produced personal or job-related depression, anxiety, stress or other psychological or emotional tensions, traumas, pressures or disorders;

(2) An exchange of information concerning any threat or suggestion of suicide or physical harm;

(3) An exchange of information relating to child abuse or elder abuse; or

(4) An exchange of information relating to the commission of a crime.

Credits

[L.2013, c. 233, § 1, eff. Jan. 17, 2014.](#)

<For text of the New Jersey Rules of Evidence ([N.J.R.E. 101 et seq.](#)), adopted by the New Jersey Supreme Court, effective July 1, 1993, and table showing the disposition of the 1967 Rules of Evidence into N.J.R.E., see Appendix A following [N.J.S.A. § 2A:84A-49.](#)>

N. J. S. A. 2A:84A-22.17, NJ ST 2A:84A-22.17

Current with laws effective through L.2017, c. 240 and J.R. No. 19.

West's North Carolina General Statutes Annotated
Chapter 8. Evidence (Refs & Annos)
Article 7. Competency of Witnesses

N.C.G.S.A. § 8-53.10

§ 8-53.10. Peer support group counselors

Currentness

(a) Definitions.--The following definitions apply in this section:

- (1) Client law enforcement employee. -- Any law enforcement employee or a member of his or her immediate family who is in need of and receives peer counseling services offered by the officer's employing law enforcement agency.
- (2) Immediate family. -- A spouse, child, stepchild, parent, or stepparent.
- (3) Peer counselor. -- Any law enforcement officer or civilian employee of a law enforcement agency who:
 - a. Has received training to provide emotional and moral support and counseling to client law enforcement employees and their immediate families; and
 - b. Was designated by the sheriff, police chief, or other head of a law enforcement agency to counsel a client law enforcement employee.
- (4) Privileged communication. -- Any communication made by a client law enforcement employee or a member of the client law enforcement employee's immediate family to a peer counselor while receiving counseling.

(b) A peer counselor shall not disclose any privileged communication that was necessary to enable the counselor to render counseling services unless one of the following apply:

- (1) The disclosure is authorized by the client or, if the client is deceased, the disclosure is authorized by the client's executor, administrator, or in the case of unadministrated estates, the client's next of kin.
- (2) The disclosure is necessary to the proper administration of justice and, subject to [G.S. 8-53.6](#), is compelled by a resident or presiding judge. If the case is in district court the judge shall be a district court judge, and if the case is in superior court the judge shall be a superior court judge.

(c) The privilege established by this section shall not apply:

- (1) If the peer counselor was an initial responding officer, a witness, or a party to the incident that prompted the delivery of peer counseling services.
- (2) To communications made while the peer counselor was not acting in his or her official capacity as a peer counselor.
- (3) To communications related to a violation of criminal law. This subdivision does not require the disclosure of otherwise privileged communications related to an officer's use of force.


(d) Notwithstanding the provisions of this section, the peer counselor privilege shall not be grounds for failure to report suspected child abuse or neglect to the appropriate county department of social services, or for failure to report a disabled adult suspected to be in need of protective services to the appropriate county department of social services. Notwithstanding the provisions of this section, the peer counselor privilege shall not be grounds for excluding evidence regarding the abuse or neglect of a child, or an illness of or injuries to a child, or the cause thereof, or for excluding evidence regarding the abuse, neglect, or exploitation of a disabled adult, or an illness of or injuries to a disabled adult, or the cause thereof, in any judicial proceeding related to a report pursuant to the Child Abuse Reporting Law, Article 3 of Chapter 7B, or to the Protection of the Abused, Neglected, or Exploited Disabled Adult Act, Article 6 of Chapter 108A of the General Statutes.

Credits

Added by [S.L. 1999-374, § 1, eff. Dec. 1, 1999](#).

N.C.G.S.A. § 8-53.10, NC ST § 8-53.10

The statutes and Constitution are current through S.L. 2017-142 (with the exception of S.L. 2017-6, §§ 1 – 4(c)), of the 2017 Regular Session of the General Assembly, pending changes received from the Revisor of Statutes.

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

[West's North Dakota Century Code Annotated](#)
[Title 32. Judicial Remedies](#)
[Chapter 32-03. Damages and Compensatory Relief](#)

NDCC, 32-03-48

§ 32-03-48. Definitions

[Currentness](#)

As used in sections 32-03-48 through [32-03-50](#), unless the context otherwise requires:

1. “Critical incident” means any event encountered by emergency service personnel within the scope of their employment which causes them to experience unusually strong emotional reactions that have the potential to interfere with their ability to perform their jobs or that may interfere with their personal lives.
2. “Critical incident stress debriefing” means the process of resolving the effects of critical incidents on emergency service personnel through a structured meeting with both psychological and educational components according to the model approved by the state department of health.
3. “Critical incident stress management team” means those volunteers who are recognized by the state department of health as members of an organized group that provides critical incident stress debriefing services on behalf of the state.
4. “Emergency service personnel” means individuals who provide emergency services to persons requiring medical aid, firefighting services, law enforcement assistance, or other emergency assistance. The term includes law enforcement officers, firefighters, rescue personnel, ambulance personnel, quick response personnel, emergency service dispatchers, nurses, physicians, and other emergency care providers.
5. “Peer support personnel” means those members of a critical incident stress management team who are emergency service personnel and who have completed appropriate training approved by the state department of health.

Credits

[S.L. 1995, ch. 326, § 1](#); [S.L. 2017, ch. 97 \(S.B. 2042\), § 25](#), eff. Aug. 1, 2017.

NDCC 32-03-48, ND ST 32-03-48

Current through the 2017 Regular Session of the 65th Legislative Assembly.

West's North Dakota Century Code Annotated
Title 32. Judicial Remedies
Chapter 32-03. Damages and Compensatory Relief

NDCC, 32-03-50

§ 32-03-50. Confidentiality of critical incident stress management team proceedings and records

Currentness

Notwithstanding [sections 44-04-18](#) and [44-04-19](#), all records and proceedings of a critical incident stress management team in connection with its critical incident stress debriefing activities are confidential. The records and proceedings are not subject to discovery or introduction into evidence in any action or proceeding involving the emergency service personnel in attendance at a debriefing and which arises out of the matters that are the subject of the debriefing. No person in attendance at a debriefing may be required to testify in any action or proceeding as to any evidence or other matters produced or presented during the debriefing. Information, documents, or records otherwise available from original sources are not immune from discovery because they were presented during a critical incident stress debriefing. Any person in attendance at a critical incident stress debriefing may testify as to matters within the person's knowledge, but the person may not testify about the specific events that occurred at a debriefing.

Credits

[S.L. 1995, ch. 326](#), § 3.

NDCC 32-03-50, ND ST 32-03-50

Current through the 2017 Regular Session of the 65th Legislative Assembly.

§ 5951. Confidential communications involving public safety responders and corrections officers.

(a) Disclosure.--Except as provided under subsection (c), a critical incident stress management team member who, while in the course of duty, has acquired information from any public safety responder or corrections officer in confidence may not be compelled or allowed without the consent of the public safety responder or corrections officer to disclose that information in a legal proceeding, trial or investigation before any government unit.

(b) Coparticipants.--Except as provided under subsection (c), a coparticipant who is present during the course of a critical incident stress management team intervention may not be compelled or allowed, without the consent of the affected public safety responder or corrections officer, to disclose any communication made during the intervention in a legal proceeding, trial or investigation before a government unit.

(c) Exceptions.--The privilege established under subsections (a) and (b) shall not apply if any of the following apply:

(1) The communication indicates clear and present danger to the public safety responder or corrections officer who received critical incident stress management services or to other individuals.

(2) The public safety responder or corrections officer who received critical incident stress management services gives express consent to the testimony.

(3) The public safety responder or corrections officer who received critical incident stress management services is deceased and the surviving spouse or the executor or administrator of the estate of the deceased public safety responder or corrections officer gives express consent.

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

"Coparticipant." An individual who is participating in a group critical incident stress management team intervention.

"Corrections officer." A corrections officer of the Commonwealth or of a political subdivision.

"Critical incident." A situation responded to by a public safety responder or corrections officer which presents or involves either the death or serious bodily injury of an individual or the imminent potential of such death or serious bodily injury, or any situation faced by a public safety responder or corrections officer in the course of duty which causes or may cause the public safety responder or corrections officer to experience unusually strong negative emotional reactions.

"Critical Incident Stress Management Network." A network that meets the requirements of membership with the Pennsylvania Voluntary Critical Incident Stress Management Network as administered by the Department of Health and is registered with the International Critical Incident Stress Foundation.

"Critical incident stress management services." Consultation, risk assessment, education, intervention, briefing, defusing, debriefing, onsite services, referral and other crisis intervention services provided by a critical incident stress management team to a public safety responder or corrections officer prior to, during or after a critical incident.

"Critical incident stress management team member." An individual who is specially trained to provide critical incident stress management services as a member of a critical incident stress management team that holds membership in the Commonwealth's critical incident stress management network.

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

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

"Government unit." The General Assembly and its officers and agencies; the Governor and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth or other instrumentalities thereof; any political subdivision, municipality, school district, local authority and the departments, boards, commissions, authorities and officers and agencies of such political subdivisions or other instrumentalities thereof; and any court or other officer or agency of the unified judicial system or instrumentality thereof.

"Public safety responder." Any firefighter, emergency medical service personnel, ambulance service personnel or emergency telecommunicator, who in a critical incident is responsible for the protection and preservation of life, property, evidence and the environment, including an emergency response provider as defined in section 2 of the Homeland Security Act of 2002 (Public Law 107-296, 116 Stat. 2135), and emergency management and other skilled support personnel who provide immediate support services during prevention, response and recovery operations.
(July 9, 2010, P.L.381, No.53, eff. 60 days)

2010 Amendment. Act 53 added section 5951.