

BILL TEXT:

STATE OF NEW YORK

6676

IN SENATE

(Prefiled)

January 9, 2008

Introduced by Sen. VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to providing a testimonial privilege to critical incident stress management/crisis response team members concerning communications made during critical incident stress management/crisis response services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. The civil practice law and rules is amended by adding a new
2 section 4508-a to read as follows:
- 3 § 4508-a. Critical incident stress management/crisis response team
4 member. (a) Definitions. For the purposes of this section:
- 5 1. "Critical incident stress management/crisis response services"
6 means contact with a trained member of an organized response team who
7 provides consultation, risk assessment, referral, and follow-up
8 services.
- 9 2. "Trained member" means an individual who received specialized
10 training in critical incident stress management/crisis response and
11 offers services as part of an organized response team.
- 12 3. "Critical incident stress management/crisis response" means a
13 comprehensive, integrated, strategic, and multi-component approach to
14 manage critical incident stress during and following incidents and/or
15 for any issue that may impact work and family life. Critical incident
16 stress management/crisis response services include:
- 17 (i) pre-incident education and preparation;
18 (ii) assessment;
19 (iii) crisis intervention;
20 (iv) strategic planning;
21 (v) large group interventions;
22 (vi) small group interventions;
23 (vii) one-on-one assistance;
24 (viii) family critical incident stress management;
25 (ix) organizational, community intervention, and consultation;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14637-01-7

S. 6676

2

1 (x) pastoral crisis intervention; and

2 (xi) follow-up and referral.

3 (b) Confidential information privileged. A trained member who received
4 specialized training in critical incident stress management/crisis
5 response as a member of an organized response team shall not be required
6 to disclose communication made by an individual while receiving such
7 services or be required to disclose his or her communications with the
8 individual in need of critical incident stress management/crisis
9 response services except:

10 1. where the individual who received critical incident stress
11 management/crisis response services gives express consent to the testi-
12 mony;

13 2. the communication reveals the contemplation of a crime or harmful
14 act;

15 3. if the individual who received critical incident stress
16 management/crisis response services is deceased, the surviving spouse or
17 the executor or administrator of the estate of the deceased individual
18 gives express consent;

19 4. the individual who received critical incident stress
20 management/crisis response services voluntarily testifies, in which case
21 the team member can be compelled to testify on the same subject; or

22 5. the court in camera determines that the information communicated by
23 the individual who received critical incident stress management/crisis
24 response services is not germane to the relationship between the indi-
25 vidual and the team member.

26 § 2. This act shall take effect immediately.

SPONSORS MEMO:

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S6676

SPONSOR: VOLKER

TITLE OF BILL:

An act to amend the civil practice law and rules, in relation to providing a testimonial privilege to critical incident stress management/crisis response team members concerning communications made during critical incident stress management/crisis response services

PURPOSE:

To add Section 4508-A to the Civil Practice Law and Rules to provide a testimonial privilege to Critical Incident Stress Management/Crisis Response team members concerning a communication from an individual who receives such services.

JUSTIFICATION:

The states of Kentucky and Ohio have passed legislation which protects communications between individuals receiving Critical Incident Stress Management/Crisis Response Services and team members from being subject to disclosure. In recognition of this important legislation which will promote broader use of Critical Incident Stress Management/Crisis Response Services, this proposal seeks to grant the same privilege to Critical Incident Stress Management/Crisis Response team members in New York. Critical Incident Stress Management/Crisis Response is a field dedicated to providing temporary but active and supportive help to individuals or groups during a period of extreme stress. Critical Incident Stress Management/Crisis Response Services represents a system of interventions designed to mitigate the adverse reactions that often accompany emergency services, public safety and disaster response functions.

The stress inherent in emergency response and disaster relief operations has the potential to overwhelm an individual's coping mechanisms and interfere with the individual's ability to function either at the scene or later in their careers, and can disrupt interpersonal relationships. The goal of providing Critical Incident Stress Management/Crisis Response Services is to provide stabilization, mitigate acute distress, return to adaptive functioning, and refer for additional assessment or follow-up care where appropriate. The content of these services does not involve an evaluation or critique of the individual's actions; rather, emphasis is placed on establishing trust and support. Under Section 4507 of the New York CPLR, communications with psychologists are privileged. Likewise, under Section 4508, communications with Social Workers are also privileged. The rationale for these privileges is rooted in the essential need for confidence and trust. Since an important element of successful Critical Incident Stress Management/Crisis Response Services depends upon the ability to communicate freely with team members, it is important that team members be afforded the same testimonial privilege as other behavioral health providers. It is essential that individuals are able to disclose information without fear that communications will be subject to public disclosure.

This proposal seeks to establish a "testimonial privilege" for Critical Incident Stress Management/Crisis Response team members. It would add Critical Incident Stress Management/Crisis Response team members to the list of already privileged relationships under the New York Civil Practice Law and Rules. Effective intervention depends upon an environment of trust and confidence. This privilege would greatly serve the public interest by facilitating needed services for emergency responders and disaster relief personnel who suffer the cognitive and psychological effects of their high-risk professions.

LEGISLATIVE HISTORY:

New bill.

EFFECTIVE DATE:

Immediately.