

AN ACT concerning government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The First Responders Suicide Prevention Act is amended by changing Section 20 and by adding Section 23 as follows:

(5 ILCS 840/20)

Sec. 20. Confidentiality; exemptions.

(a) Any communication made by an employee of an emergency services provider or law enforcement agency or peer support advisor in a peer support counseling session and any oral or written information conveyed in the peer support counseling session is confidential and may not be disclosed by any person participating in the peer support counseling session and shall not be released to any person or entity.

(b) Any communication relating to a peer support counseling session made confidential under this Section that is made between peer support advisors and the supervisors or staff of a peer support counseling program, or between the supervisor or staff of a peer support counseling program, is confidential and may not be disclosed.

(c) This Section 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 program.

(c-5) Any communication described in subsection (a) or (b) is subject to subpoena for good cause shown.

(d) The privileges established under this Section do not apply if any of the following occur:

(1) the communication indicates an intent to engage in conduct likely to result in imminent death or serious physical injury to the participant or another individual;

(2) the person receiving the peer support counseling session discloses information that is required to be reported under the mandated reporting laws, including, but not limited to, the reporting of maltreatment of minors, the reporting of maltreatment of vulnerable adults, provided the disclosure is only for the purpose of reporting maltreatment and limited to information necessary to make such a report;

(3) the participant expressly waives the privilege or gives consent to disclosure of the privileged communication;

(4) the participant is deceased and the surviving spouse or the executor or administrator of the estate of the deceased participant expressly waives the privilege or gives consent to disclosure of the privileged communication; or

(5) the participant sought or obtained the peer

support counseling services to enable or aid anyone to commit or plan to commit what the participant knew, or reasonably should have known, was a crime or fraud. ~~This Section does not apply to:~~

~~(1) any threat of suicide or homicide made by a participant in a peer support counseling session or any information conveyed in a peer support counseling session related to a threat of suicide or homicide;~~

~~(2) any information mandated by law or agency policy to be reported, including, but not limited to, domestic violence, child abuse or neglect, or elder abuse or neglect;~~

~~(3) any admission of criminal conduct; or~~

~~(4) an admission or act of refusal to perform duties to protect others or the employee of the emergency services provider or law enforcement agency.~~

(e) All communications, notes, records, and reports arising out of a peer support counseling session are not subject to disclosure under Section 7.5 of the Freedom of Information Act.

(e-5) A department that establishes a peer support counseling program shall develop a policy or rule that imposes disciplinary measures against a peer support advisor who violates the confidentiality of the peer support counseling program by sharing information learned in a peer support counseling session with department personnel who are not

supervisors or staff of the peer support counseling program, unless the information is related to the exemptions in subsection (d).

(e-10) Confidentiality protections under this Act apply regardless of whether the peer support advisor is employed by, or affiliated with, the same agency as the first responder receiving support.

(f) A cause of action exists for public safety personnel or emergency services personnel if the emergency services provider or law enforcement agency uses confidential information obtained during a confidential peer support counseling session conducted by a law enforcement agency or by an emergency services provider for an adverse employment action against the participant.

(Source: P.A. 101-375, eff. 8-16-19.)

(5 ILCS 840/23 new)

Sec. 23. Confidentiality of critical incident stress management communications.

(a) In this Section:

"Civilian employee" means an employee of a law enforcement, fire, or emergency medical services agency who is not a first responder.

"Critical incident" means an event that results in acute or cumulative psychological stress or trauma to emergency service personnel. "Critical incident" includes, but is not

limited to, an encounter that may result in the death of or serious injury to another person or the imminent potential of such death or serious bodily injury, a fatal motor vehicle accident, a child abuse investigation, a death investigation, a large-scale, human-made or natural disaster, or situations or incidents during the course of a first responder's duties that cause cumulative exposure to stress.

"Critical incident stress management services" or "CISM services" means consultation, risk assessment, education, intervention, and other crisis intervention services provided by a CISM team or CISM team member to a first responder, civilian employee or an immediate family member of a first responder or civilian employee before, during, or after a critical incident.

"Critical incident stress management team" means a group that is organized to provide critical incident stress management to emergency service providers and that consists of critical incident stress management team members. "Critical incident stress management team" includes members from any emergency service discipline, mental health professionals, and designated emergency service chaplains.

"Critical incident stress management team member" or "CISM team member" means an individual who satisfies all of the following:

- (1) is specially trained to provide CISM services 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; and

(2) meets the requirements of a nationally accredited critical incident stress management organization or network.

"First responders" means federal, State, and local law enforcement officers, fire and emergency medical services personnel, hazardous materials response team members, 9-1-1 dispatchers, chaplains, or any individuals who are responsible for the protection and preservation of life, property, and evidence and who have been sent or directed to respond to a request for assistance as a result of a critical incident.

"Immediate family member" means a spouse, dating partner, person with a child in common, parent, child, step-relative, and people sharing a dwelling.

"Participant" means any of the following:

(1) a first responder who obtains or has obtained CISM services or wellness program services;

(2) a first responder's immediate family member who obtains or has obtained wellness program services;

(3) a civilian employee who obtains or has obtained wellness program services; or

(4) a civilian employee's immediate family member who obtains or has obtained wellness program services.

"Trained peer support member" means a first responder who

is designated as a peer support member by a State, county, or municipal law enforcement, fire, or emergency medical services agency and who is specially trained to provide a participant with wellness program services.

"Wellness program" means a voluntary and comprehensive health initiative designed to improve the well-being of participants through the use of trained peer support members.

"Wellness program services" means any one or more of the following services provided through a wellness program:

(1) counseling;

(2) spiritual guidance; and

(3) education about financial resources, health resources, legal assistance, and stress management services.

(b) Except as provided in subsections (c-5) and (d) of this Section, all proceedings, communications, and records, including any information acquired by a CISM team, CISM team member, or trained peer support member from a participant, are confidential. A CISM team member or trained peer support member may not be compelled to disclose the proceedings, communications, or records, including any information acquired, through compulsory legal process, and the confidential proceedings, communications, records, and information under this subsection (b) are not discoverable or admissible in evidence in any action, including any legal proceeding, trial, or investigation unless the confidentiality

is waived by the affected participant.

(c) The privileges in subsection (b) of this Section apply only if the proceedings, communications, or records, including information acquired, are obtained during the provision of CISM services or wellness program services.

(c-5) Any communication under subsection (b) is subject to a subpoena for good cause shown.

(d) The privileges established under subsection (b) of this Section do not apply if any of the following occur:

(1) the communication indicates an intent to engage in conduct likely to result in imminent death or serious physical injury to the participant or another individual;

(2) the person receiving critical incident stress management services discloses information that is required to be reported under the mandated reporting laws, including, but not limited to, the reporting of maltreatment of minors or the reporting of maltreatment of vulnerable adults, provided the disclosure is only for the purpose of reporting maltreatment and limited to information necessary to make such a report;

(3) the participant expressly waives the privilege or gives consent to disclosure of the privileged communication;

(4) the participant is deceased and the surviving spouse or the executor or administrator of the estate of the deceased participant expressly waives the privilege or

gives consent to disclosure of the privileged communication; or

(5) the participant sought or obtained the CISM services or wellness program services to enable or aid anyone to commit or plan to commit what the participant knew, or reasonably should have known, was a fraud or other crime.

(e) Information otherwise available from the original source is not privileged from discovery or use in any civil or criminal action merely because the information was disclosed by a participant during CISM services or wellness program services if the disclosure of the information sought is otherwise permissible and the information is otherwise discoverable.