

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

486W0448

## HOUSE HEALTH AND HUMAN SERVICES ENGROSSED NO. **HB 1151** - 02/03/2015

Introduced by: Representatives Bolin and Gibson and Senators Olson and Buhl O'Donnell

1 FOR AN ACT ENTITLED, An Act to improve public safety through confidential stress  
2 management services for emergency service providers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Critical incident stress," the acute or cumulative psychological stress or trauma that  
6 an emergency service provider may experience by providing services during a critical  
7 incident, crisis, disaster, or emergency. Critical incident stress is a strong emotional,  
8 cognitive, or physical reaction that has the potential to interfere with normal  
9 functioning, such as:

- 10 (a) Physical, mental, or emotional illness;  
11 (b) Failure of usual coping mechanisms;  
12 (c) Loss of interest in the job or in usual social relationships;  
13 (d) Personality changes; or  
14 (e) Loss of ability to function;

15 (2) "Critical incident stress management," any consultation, incident briefing and



debriefing, on-site crisis intervention, counseling, risk assessment, case management services, harm prevention, and referral, provided by any person designated by an appropriate state or local governmental unit or agency to an emergency service provider affected by critical incident stress;

(3) "Critical incident stress management team," any person designated by an appropriate state or local governmental unit or agency to provide professional critical incident stress management to an emergency service provider affected by critical incident stress, and certified by the International Critical Stress Foundation as a Critical Incident Stress Management provider;

(4) "Peer support team member," any person, who is a peer of the emergency service provider, designated by an appropriate state or local government unit to provide critical incident stress management services to the provider, and certified by the International Critical Stress Foundation as a Critical Incident Stress Management provider;

(5) "Emergency service provider" or "provider," any person who provides response services during a critical incident, by or on behalf of a state or local governmental unit.

Section 2. Except as provided for in section 3 of this Act and notwithstanding any other law, an interview, meeting, conference, or on-site intervention in which critical incident stress management services are provided shall be:

- (1) Closed to the general public; and
- (2) Closed to any person who was not directly involved in the critical incident or the critical incident stress management.

Section 3. The confidentiality provided for in section 2 of this Act does not apply if:

1       (1)    The critical incident stress management services are conducted on-site, in public,  
2            because of exigent circumstances inherent in the critical incident itself;

3       (2)    The emergency service provider, or the legal representative of the provider, expressly  
4            agrees that the interview, meeting, conference, or on-site intervention may be open  
5            to the general public or to certain specified persons.

6       Section 4. Except as otherwise provided for in section 5 of this Act, a communication made  
7       by an emergency service provider to a critical incident stress management team or to a peer  
8       support team member while the provider receives critical incident stress management services  
9       is confidential and may not be disclosed in a civil or administrative proceeding.

10      Any record kept by a critical incident stress management team or a peer support team  
11      member, relating any critical incident stress management services to an emergency service  
12      provider, is confidential and is not subject to subpoena, discovery, or introduction into evidence  
13      in a civil or administrative proceeding.

14      Section 5. A communication or record described by section 4 of this Act is not confidential  
15      if:

16      (1)    It conveys information to an appropriate professional for further consultation, advice,  
17            or referral service that the critical incident stress management team reasonably deems  
18            necessary for the continuing care of the emergency service provider;

19      (2)    It conveys information that the emergency service provider is or reasonably appears  
20            to be an imminent threat to the provider or others;

21      (3)    It conveys information relating to a past, present, or future criminal act;

22      (4)    The emergency service provider, or the legal representative of the provider, expressly  
23            agrees that the communication or record is not confidential; or

24      (5)    The emergency service provider is deceased.

1       A communication or record described by section 4 of this Act is not confidential to the  
2       extent that it only conveys information concerning the services and care provided to or withheld  
3       by the emergency service provider to an individual injured or killed in the critical incident.

4       Section 6. A critical incident stress management team or a peer support team member  
5       providing critical incident stress management services is not liable for damages, including  
6       personal injury, wrongful death, property damage, or other loss related to the team or member's  
7       act, error, or omission in the performance of the services, unless the act, error, or omission  
8       constitutes wanton, willful, or intentional misconduct.