S T A T E O F N E W Y O R K

10301

I N A S S E M B L Y

May 22, 2012

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to a testimonial privilege for 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:

Section 1. The civil practice law and rules is amended by adding a new section 4508-a to read as follows:

S 4508-A. CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE TEAM MEMBER. (A) DEFINITIONS. 1. "CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE SERVICES" MEANS CONTACT WITH A TRAINED MEMBER OF AN ORGANIZED RESPONSE TEAM WHO PROVIDES CONSULTATION, RISK ASSESSMENT, REFERRAL, AND FOLLOW-UP SERVICES.

2. "A TRAINED MEMBER" MEANS AN INDIVIDUAL WHO RECEIVED SPECIALIZED TRAINING IN CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE AND OFFERS SERVICES AS PART OF AN ORGANIZED RESPONSE TEAM.

3. "CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE" MEANS A COMPREHENSIVE, INTEGRATED, STRATEGIC, AND MULTI-COMPONENT APPROACH TO MANAGE CRITICAL INCIDENT STRESS DURING AND FOLLOWING INCIDENTS AND/OR FOR ANY ISSUE THAT MAY IMPACT WORK AND FAMILY LIFE. CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE SERVICES INCLUDE:

A. PRE-INCIDENT EDUCATION AND PREPARATION.
B. ASSESSMENT.
C. CRISIS INTERVENTION.
D. STRATEGIC PLANNING.
E. LARGE GROUP INTERVENTIONS.
F. SMALL GROUP INTERVENTIONS.
G. ONE-ON-ONE ASSISTANCE.
H. FAMILY CRITICAL INCIDENT STRESS MANAGEMENT.
I. ORGANIZATIONAL, COMMUNITY INTERVENTION, AND CONSULTATION.
J. PASTORAL CRISIS INTERVENTION.
K. FOLLOW-UP AND REFERRAL.

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

LBD15833-01-2

(B) CONFIDENTIAL INFORMATION PRIVILEGED. A TRAINED MEMBER WHO RECEIVED SPECIALIZED TRAINING IN CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE AS A MEMBER OF AN ORGANIZED RESPONSE TEAM SHALL NOT BE REQUIRED TO DISCLOSE COMMUNICATION MADE BY AN INDIVIDUAL WHILE RECEIVING SUCH SERVICES OR BE REQUIRED TO DISCLOSE HIS OR HER COMMUNICATIONS WITH THE INDIVIDUAL IN NEED OF CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE SERVICES; EXCEPT IF:

1. THE INDIVIDUAL WHO RECEIVED CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE SERVICES GIVES EXPRESS CONSENT TO THE TESTIMONY.

2. THE COMMUNICATION REVEALS THE CONTEMPLATION OF A CRIME OR HARMFUL ACT.

3. THE INDIVIDUAL WHO RECEIVED CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE SERVICES IS DECEASED, THE SURVIVING SPOUSE OR THE EXECUTOR OR ADMINISTRATOR OF THE ESTATE OF THE DECEASED INDIVIDUAL GIVES EXPRESS CONSENT.

4. THE INDIVIDUAL WHO RECEIVED CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE SERVICES VOLUNTARILY TESTIFIES, IN WHICH CASE THE TEAM MEMBER CAN BE COMPELLED TO TESTIFY ON THE SAME SUBJECT.

5. THE COURT IN CAMERA DETERMINES THAT THE INFORMATION COMMUNICATED BY THE INDIVIDUAL WHO RECEIVED CRITICAL INCIDENT STRESS MANAGEMENT/CRISIS RESPONSE SERVICES IS NOT GERMANE TO THE RELATIONSHIP BETWEEN THE INDIVIDUAL AND THE TEAM MEMBER.

S 2. This act shall take effect immediately.