

By: Hamilton

H.B. No. 2040

Substitute the following for H.B. No. 2040:

By: Beck

C.S.H.B. No. 2040

A BILL TO BE ENTITLED

AN ACT

relating to critical incident stress management and crisis response services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 9, Health and Safety Code, is amended by adding Chapter 784 to read as follows:

CHAPTER 784. CRITICAL INCIDENT STRESS MANAGEMENT AND CRISIS
RESPONSE SERVICES

Sec. 784.001. DEFINITIONS. In this chapter:

(1) "Crisis response service" means consultation, risk assessment, referral, and on-site crisis intervention services provided by an emergency response team member to an emergency service provider affected by a crisis or disaster.

(2) "Critical incident stress" means the acute or cumulative psychological stress or trauma that an emergency service provider may experience in providing emergency services in response to a critical incident, including a crisis, disaster, or emergency. The stress or trauma is an unusually strong emotional, cognitive, or physical reaction that has the potential to interfere with normal functioning, including:

(A) physical and emotional illness;

(B) failure of usual coping mechanisms;

(C) loss of interest in the job;

(D) personality changes; and

1 (E) loss of ability to function.

2 (3) "Critical incident stress management service"
3 means a service providing a process of crisis intervention designed
4 to assist an emergency service provider in coping with critical
5 incident stress. The term includes consultation, counseling,
6 debriefing, defusing, intervention services, case management
7 services, prevention, and referral.

8 (4) "Emergency response team member" means an
9 individual providing critical incident stress management services
10 or crisis response services, or both, who is designated by an
11 appropriate state or local governmental unit to provide those
12 services as a member of an organized team or in association with the
13 governmental unit.

14 (5) "Emergency service provider" means an individual
15 who provides emergency response services, including a law
16 enforcement officer, firefighter, emergency medical services
17 provider, dispatcher, or rescue service provider.

18 Sec. 784.002. CLOSED MEETINGS. (a) Except as provided by
19 Subsection (b) and notwithstanding Chapter 551, Government Code, or
20 any other law, a meeting in which critical incident stress
21 management services or crisis response services are provided to an
22 emergency service provider:

23 (1) is closed to the general public; and
24 (2) may be closed to any individual who was not
25 directly involved in the critical incident or crisis.

26 (b) Subsection (a) does not apply if:

27 (1) the emergency service provider or the legal

1 representative of the provider expressly agrees that the meeting
2 may be open to the general public or to certain individuals; or

3 (2) the emergency service provider is deceased.

4 Sec. 784.003. CONFIDENTIALITY. (a) Except as otherwise
5 provided by this section:

6 (1) a communication made by an emergency service
7 provider to an emergency response team member while the provider
8 receives critical incident stress management services or crisis
9 response services is confidential and may not be disclosed in a
10 civil, criminal, or administrative proceeding; and

11 (2) a record kept by an emergency response team member
12 relating to the provision of critical incident stress management
13 services or crisis response services to an emergency service
14 provider by the team is confidential and is not subject to subpoena,
15 discovery, or introduction into evidence in a civil, criminal, or
16 administrative proceeding.

17 (b) A court in a civil or criminal case or the
18 decision-making entity in an administrative proceeding may allow
19 disclosure of a communication or record described by Subsection (a)
20 if the court or entity finds that the benefit of allowing disclosure
21 of the communication or record is more important than protecting
22 the privacy of the individual.

23 (c) A communication or record described by Subsection (a)
24 is not confidential if:

25 (1) the emergency response team member reasonably
26 needs to make an appropriate referral of the emergency service
27 provider to or consult about the provider with another member of the

1 team or an appropriate professional associated with the team;

2 (2) the communication conveys information that the
3 emergency service provider is or appears to be an imminent threat to
4 the provider or anyone else;

5 (3) the communication conveys information relating to
6 a past, present, or future criminal act that does not directly
7 relate to the critical incident or crisis;

8 (4) the emergency service provider or the legal
9 representative of the provider expressly agrees that the
10 communication or record is not confidential; or

11 (5) the emergency service provider is deceased.

12 (d) A communication or record described by Subsection (a) is
13 not confidential to the extent that it conveys information
14 concerning the services and care provided to or withheld by the
15 emergency service provider to an individual injured in the critical
16 incident or during the crisis.

17 Sec. 784.004. LIMITATION ON LIABILITY. (a) Except as
18 provided by Subsection (b), an emergency response team or an
19 emergency response team member providing critical incident stress
20 management services or crisis response services is not liable for
21 damages, including personal injury, wrongful death, property
22 damage, or other loss related to the team's or member's act, error,
23 or omission in the performance of the services, unless the act,
24 error, or omission constitutes wanton, wilful, or intentional
25 misconduct.

26 (b) Subsection (a) limits liability for damages in any civil
27 action, other than an action under Chapter 74, Civil Practice and

1 Remedies Code.

2 SECTION 2. Chapter 784, Health and Safety Code, as added by
3 this Act, applies only to critical incident stress management
4 services and crisis response services, as those terms are defined
5 by Section 784.001, Health and Safety Code, as added by this Act,
6 provided in relation to a critical incident or crisis that occurs
7 on or after the effective date of this Act.

8 SECTION 3. This Act takes effect September 1, 2011.