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SENATE BILL NO. 362

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia, Police and Public Safety
on February 17, 2012)

(Patron Prior to Substitute—Senator Deeds)

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 16 of Title 19.2 a section numbered 19.2-271.4, relating to critical incident stress management teams; privileged communications by certain emergency medical services and public safety personnel.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 16 of Title 19.2 a section numbered 19.2-271.4 as follows:

§ 19.2-271.4. Privileged communications by certain public safety personnel.

A. A person who is a member of a critical incident stress management team, established pursuant to subdivision A 13 of § 32.1-111.3, shall not disclose nor be compelled to testify regarding any information communicated to him by emergency medical services or public safety personnel who are the subjects of peer support services regarding a critical incident. Such information shall also be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. A person whose communications are privileged under subsection A may waive the privilege.

C. The provisions of this section shall not apply when:

1. Criminal activity is revealed;

2. A member of a critical incident stress management team is a witness or a party to a critical incident that prompted the peer support services;

3. A member of a critical incident stress management team reveals the content of privileged information to prevent a crime against any other person or a threat to public safety;

4. The privileged information reveals intent to defraud or deceive the investigation into the critical incident; or

5. A member of a critical incident stress management team reveals the content of privileged information to the employer of the emergency medical services or public safety personnel regarding criminal acts committed or information that would indicate that the emergency medical services or public safety personnel pose a threat to themselves or others.