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# Wisconsin Legislative Council

## ACT MEMO

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**Prepared by:** Steve McCarthy, Senior Staff Attorney

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### 2023 Wisconsin Act 220 [2023 Assembly Bill 576]

### Public Safety Peer Counseling and Privilege for Peer Support and Critical Incident Stress Management Services Communications

## 2023 WISCONSIN ACT 220

2023 Wisconsin Act 220 requires the Wisconsin Department of Justice (DOJ) to establish and implement a program for the establishment of peer support teams and critical incident stress management services (CISM) teams, and to organize a program of training required for membership on a team to provide peer support services or CISM services.

The act then allows various agencies to establish peer support and CISM teams so long as the agency develops written guidelines for the team and its members and follows any related administrative rules promulgated by DOJ. The act defines “agency” to mean a law enforcement agency, a tribal law enforcement agency, a fire protection or emergency medical services agency, or any other agency or entity, including a nonprofit organization, that employs, represents, or serves law enforcement officers, tribal law enforcement officers, correctional officers, jail officers, juvenile detention officers, fire fighters, dispatchers, emergency medical responders, emergency medical services practitioners, public safety personnel, or ambulance service provider personnel.

In order to qualify as a peer support or CISM team member, an individual must attend a peer support training program provided through DOJ or, at a minimum, a training program by a credentialed health care provider who, through education, training, or experience, is qualified to provide peer support training or CISM services training. An individual may not provide peer support services or CISM services unless that individual successfully completes a peer support or CISM services training program.

The act also establishes certain protections for communications with peer support and CISM team members who are acting in the individual’s capacity as a team member, and functioning within the written guidelines that are in effect for the team member’s respective agency. Specifically, the act provides that those team members may refuse to disclose communications made by a person receiving peer support services or CISM services, including individual or group support sessions, and that communications made by a person receiving services are not open to public inspection, copying, or disclosure under Wisconsin’s Open Records Law. However, these protections do not apply if any of the following are true:

- A team member was a witness or a party to the incident that prompted the delivery of peer support services or CISM services.
- Information received by a team member is indicative of actual or suspected child abuse or actual or suspected child neglect.

- The person receiving services is a clear and immediate danger to himself or herself or others.
- Communication to a team member provides evidence that the person who is receiving services has committed a crime, plans to commit a crime, or intends to conceal a crime.

The act also creates a testimonial privilege for a person receiving peer support services from a peer support team member or a person receiving CISM services from a CISM services team member during the person's life to refuse to disclose and to prevent any other person from disclosing peer support or CISM communications. This privilege may be claimed by the person who received the services or the guardian or conservator of the person who received the services. A person who was a peer support team member or critical incident stress management services team member at the time of the communication is presumed to have authority during the life of the person who received the peer support services or critical incident stress management services to claim the privilege on behalf of the person who received the peer support services or critical incident stress management services. However, no such privilege exists for any of the following:

- Communication to a team member that is evidence of actual or suspected child neglect or abuse.
- Communication to a team member that is evidence a person receiving services is a clear and immediate danger to himself or herself or others.
- Communication to a team member that is evidence that a person who is receiving services has committed a crime, plans to commit a crime, or intends to conceal a crime.

The act also provides a liability exemption for peer support teams and team members and CISM services teams and team members providing peer support or CISM services. Specifically, except for actions for medical malpractice, a team or team member providing peer support services or CISM services is not liable for damages, including personal injury, wrongful death, property damage, or other loss related to a peer support team member's or CISM services team member's act, error, or omission in performing peer support services or CISM services.

**Effective date:** March 29, 2024

For a full history of the bill, visit the Legislature's [bill history page](#).

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