

SENATE BILL 780

E4

3lr0673

By: **Senator Mautz**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement – Police Officer Employee Assistance Programs**
3 **– Confidentiality**

4 FOR the purpose of providing that, subject to certain exceptions, a participant in an
5 employee assistance program may not disclose or be compelled to disclose the content
6 of certain written or oral communications that arise from their participation in the
7 employee assistance program; providing that certain confidential information
8 regarding services provided by an employee assistance program is not subject to
9 disclosure under the Public Information Act; and generally relating to police officer
10 employee assistance programs.

11 BY adding to
12 Article – General Provisions
13 Section 4–342
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2022 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 3–523
19 Annotated Code of Maryland
20 (2022 Replacement Volume)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – General Provisions**

24 **4–342.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD THAT CONTAINS INFORMATION RELATING TO A PARTICIPANT IN A SERVICE PROVIDED BY AN EMPLOYEE ASSISTANCE PROGRAM UNDER § 3-523 OF THE PUBLIC SAFETY ARTICLE.

Article – Public Safety

3-523.

(a) (1) In this section the following words have the meanings indicated.

(2) “Employee assistance program” means a work-based program offered to all police officers that provides access to voluntary and confidential services to address the mental health issues of a police officer stemming from personal and work-related concerns, including stress, financial issues, legal issues, family problems, office conflicts, and alcohol and substance abuse disorders.

(3) “Law enforcement agency” has the meaning stated in § 3-201 of this title.

(4) “Police officer” has the meaning stated in § 3-201 of this title.

(b) Each law enforcement agency shall provide access to an employee assistance program for all police officers whom the law enforcement agency employs.

(c) The employee assistance program required by this section shall provide police officers access to confidential mental health services, including:

(1) counseling services;

(2) crisis counseling;

(3) stress management counseling;

(4) resiliency sessions; and

(5) peer support services for police officers.

(d) (1) In addition to the requirements of § 3-516 of this subtitle and subject to paragraph (2) of this subsection, as part of the employee assistance program required by this section, before a police officer returns to full duty, a law enforcement agency shall provide:

(i) a voluntary mental health consultation and voluntary counseling services to the police officer if the police officer is involved in an incident involving an accident resulting in a fatality; and

(ii) a mandatory mental health consultation and voluntary counseling services to the police officer if the police officer is involved in an incident involving:

1. a serious injury to the police officer;
2. an officer-involved shooting; or
3. any use of force resulting in a fatality or serious injury.

(2) A mental health consultation and counseling service provided under paragraph (1) of this subsection shall be confidential.

(e) The employee assistance program required by this section shall include a component designed to protect the mental health of police officers during periods of public demonstrations and unrest.

(f) Each law enforcement agency shall develop a policy to provide access to the services required by this section at no cost to a police officer.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PARTICIPANT IN ANY SERVICE PROVIDED BY AN EMPLOYEE ASSISTANCE PROGRAM MAY NOT DISCLOSE OR BE COMPELLED TO DISCLOSE THE CONTENTS OF ANY WRITTEN OR ORAL COMMUNICATION MADE BY THE PARTICIPANT OR ANOTHER THAT ARISES FROM THEIR PARTICIPATION IN THE EMPLOYEE ASSISTANCE PROGRAM.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY IF:

(I) THE COMMUNICATION CONTAINS:

1. AN EXPLICIT THREAT OF SUICIDE, THE DISCLOSURE OF WHICH THE PARTICIPANT BELIEVES IS NECESSARY TO AVOID A SUICIDE ATTEMPT;

2. AN EXPLICIT THREAT OF IMMINENT AND SERIOUS BODILY HARM OR DEATH TO A CLEARLY IDENTIFIED OR IDENTIFIABLE INDIVIDUAL;

3. INFORMATION RELATING TO THE ABUSE OR NEGLECT OF A CHILD OR VULNERABLE ADULT; OR

4. THE ADMISSION OF CRIMINAL CONDUCT;

(II) THE COMMUNICATION WAS MADE BY THE PARTICIPANT AND THE DISCLOSURE IS VOLUNTARY; OR

1 **(III) THE DISCLOSURE IS AUTHORIZED BY EACH PARTY WHO WAS**
2 **A PARTICIPANT IN THE COMMUNICATION.**

3 **(3) CONFIDENTIAL INFORMATION REGARDING A SERVICE PROVIDED**
4 **BY AN EMPLOYEE ASSISTANCE PROGRAM TO A POLICE OFFICER UNDER THIS**
5 **SECTION IS NOT SUBJECT TO DISCLOSURE UNDER THE PUBLIC INFORMATION ACT.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2023.