

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 104

(Senator Norman)

Judicial Proceedings

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**Privileged Communications - Critical Incident Stress Management Services**

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This bill generally prohibits a “critical incident stress management team member” from (1) disclosing any communication or information received or acquired in confidence from a law enforcement officer, correctional officer, or emergency responder (officer/responder) in the course of providing critical incident stress management services or (2) being compelled to testify in any judicial or administrative proceeding or any investigation by a governmental unit about any such communication or information. The bill establishes a similar privilege for an individual who participates in or is present during the provision of critical incident stress management services.

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**Fiscal Summary**

**State Effect:** None. The bill is procedural/technical in nature and is not expected to materially affect State finances.

**Local Effect:** None. The bill is procedural/technical in nature and is not expected to materially affect local finances.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The privileges conferred by the bill do not apply if (1) the communication or information indicates a clear and imminent danger to the officer/responder who received critical incident stress management services or to another individual; (2) the officer/responder who received services expressly consents to the disclosure; or (3) the officer/responder who received services is deceased and the surviving spouse or the

personal representative of the officer/responder's estate expressly consents to the disclosure.

The bill defines a "critical incident" as an incident (1) responded to by an officer/responder involving the death of or serious bodily injury to an individual or the imminent threat of death or serious bodily injury to an individual or (2) responded to by an officer/responder in the course of duty that causes or may cause the officer/responder to suffer psychological or emotional trauma.

"Critical incident stress management services" means individual and group consultation, risk assessment, education, intervention, defusing, briefing, or debriefing provided to an officer/responder during or after a critical incident. The term includes services at the scene of a critical incident or at an officer/responder facility, referral to medical or mental health services, or any other crisis intervention services. A "critical incident stress management team member" is an individual who is specially trained to provide critical incident stress management services by a law enforcement agency, correctional facility, or emergency response unit or by an organization that is registered with the International Critical Incident Stress Foundation or another critical incident stress management governing organization recognized by the Maryland Police Training and Standards Commission or the Maryland Fire and Rescue Institute. "Critical incident stress management team member" includes a peer support member, licensed mental health provider, and team coordinator, but does not include an individual who was directly involved in the critical incident for which the critical incident stress management services are being provided.

**Current Law:** Testimonial privileges pertaining to communications are established by State law between a patient or client and several professionals who provide counseling services, including licensed psychologists, psychiatrists, professional counselors, and psychiatric-mental health nursing specialists. Under these privileges, a patient/client or the patient/client's authorized representative has a privilege to refuse to disclose and prevent a witness from disclosing information relating to the diagnosis and treatment of the patient/client or information that would show a medical record of diagnosis or treatment.

**Background:** According to its website, the Maryland Institute for Emergency Medical Services Systems State Critical Incident Stress Management team assists law enforcement, fire department personnel, emergency medical personnel, and other responders "in mitigating and responding to the normal emotional and psychological effects experienced following stressful responses and critical incidents." The team accomplishes this goal through education programs, advanced training, and post-critical incident group discussions. The team is made up of first responder volunteers and licensed mental health personnel "who have been trained to assist responders in dealing with normal reactions to abnormal events."

## **Additional Information**

**Prior Introductions:** SB 822 of 2016 received a hearing in the Senate Judicial Proceedings Committee. No further action was taken on the bill. Its cross file, HB 419, received a hearing in the House Judiciary Committee. No further action was taken on the bill. HB 1077 of 2015 received a hearing in the House Judiciary Committee but was later withdrawn. SB 461 of 2014 received a hearing in the Senate Judicial Proceedings Committee. No further action was taken on the bill. Similar bills have been introduced during previous sessions.

**Cross File:** None.

**Information Source(s):** Kent, Montgomery, and Worcester counties; City of Salisbury; City of Westminster; Town of Leonardtown; Judiciary (Administrative Office of the Courts); Office of the Public Defender; University System of Maryland; Department of General Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Comptroller's Office; State's Attorneys' Association; Maryland Institute for Emergency Medical Services Systems; Department of Legislative Services

**Fiscal Note History:** First Reader - January 15, 2018  
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