

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 822

(Senators Norman and Astle)

Judicial Proceedings

Privileged Communications - Critical Incident Stress Management Services

This bill 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.

These privileges 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.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Bill Summary: A “critical incident” is 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 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: Current law provides testimonial privileges pertaining to communications 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.

Additional Information

Prior Introductions: 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. SB 661 of 2013 was withdrawn after receiving a hearing in the Senate Judicial Proceedings Committee. Its cross file, HB 1304, was withdrawn after being heard in the House Judiciary Committee. HB 1325 of 2011 was scheduled for a hearing in the House Judiciary Committee but was withdrawn before being heard.

Cross File: HB 419 (Delegate Fraser-Hidalgo, *et al.*) - Judiciary.

Information Source(s): Harford and Montgomery counties, cities of Frederick and Havre de Grace, University System of Maryland, Maryland Department of Transportation, Department of State Police, Department of Natural Resources, Office of the Public Defender, Comptroller's Office, Department of General Services, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Office of the Public Defender, State's Attorneys' Association, Department of Public Safety and Correctional Services, Military Department, Department of Legislative Services

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md/kdm

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