



January 13, 2021

SENATE BILL No. 77

DIGEST OF SB 77 (Updated January 12, 2021 10:00 am - DI 140)

Citations Affected: IC 34-30; IC 36-8.

Synopsis: Peer support services and CISM services. Provides, with certain exceptions, that written or oral communications concerning the provision of peer support services and critical incident stress management services (CISM services) to a first responder are confidential and may not be disclosed without the first responder's consent. (Current law provides that communications concerning CISM services to an emergency responder are confidential.) Provides that a first responder's communication is not confidential and may be disclosed: (1) to prevent the first responder from committing a crime or fraud that the provider of CISM services or peer support services reasonably believes is likely to result in death, substantial bodily harm, or substantial economic injury to another; (2) if it conveys information regarding spousal abuse; (3) if the provider of CISM services or the peer support services was a witness or a party to the incident resulting in the provision of services to the first responder; or (4) if the first responder consents to disclosure. Provides that a person providing peer support services is not liable for damages for an act, error, or omission committed by the person in performing peer support services unless the act, error, or omission constitutes wanton, willful, or intentional misconduct.

Effective: July 1, 2021.

Crider

January 5, 2021, read first time and referred to Committee on Homeland Security and Transportation.

January 12, 2021, reported favorably — Do Pass.

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January 13, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 77

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-30-2-154.7, AS ADDED BY P.L.137-2017,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 154.7. IC 36-8-2.5-3 (Concerning critical incident
4 stress management services **and peer support services**).

5 SECTION 2. IC 36-8-2.5-1, AS ADDED BY P.L.137-2017,
6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2021]: Sec. 1. The following definitions apply throughout this
8 chapter:

9 (1) **"Communication"** means an oral or written statement,
10 **note, record, recording, report, or document made during, or**
11 **arising out of, a first responder's receipt of CISM services or**
12 **peer support services.**

13 (†) (2) **"Critical incident"** means an actual or perceived event or
14 situation that involves crisis, disaster, trauma, or emergency.

15 (‡) (3) **"Critical incident stress"** means the acute or cumulative
16 psychological stress or trauma that ~~an emergency~~ **a first**
17 responder may experience in providing emergency services in

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1 response to a critical incident. The stress or trauma is an
 2 unusually strong emotional, cognitive, behavioral, or physical
 3 reaction that may interfere with normal functioning by causing:

- 4 (A) physical and emotional injury or illness;
 5 (B) failure of a usual coping mechanism;
 6 (C) loss of interest in work or normal life activities;
 7 (D) loss of ability to function; or
 8 (E) psychological disruption of personal life, including the
 9 emergency responder's relationship with a spouse, child,
 10 relative, or friend.

11 ~~(3)~~ **(4) "Critical incident stress management services" or "CISM**
 12 **services" means critical incident stress management services**
 13 **that** include programs and services related to education,
 14 prevention, and mitigation of the effects from exposure to highly
 15 stressful critical incidents. The term includes services provided by
 16 an individual certified to provide group crisis intervention,
 17 individual crisis intervention, peer support, or any related service.

18 ~~(4)~~ **(5) "Critical incident stress management services provider" or**
 19 **"CISM services provider" means an individual who is certified to**
 20 **provide CISM services and who is acting as part of a CISM team**
 21 **or in another official capacity.**

22 ~~(5)~~ **(6) "Critical incident stress management team" or "CISM**
 23 **team" means an organized community or local crisis response**
 24 **team that is trained and certified under standards substantially**
 25 **similar to the training and certification standards established by**
 26 **the Indiana emergency medical services commission as set forth**
 27 **under IC 16-31-2.**

28 ~~(6)~~ **(7) "Emergency responder" "First responder" means an**
 29 **individual who provides emergency response services, including:**

- 30 (A) a law enforcement officer;
 31 ~~(B)~~ a corrections officer;
 32 ~~(C)~~ a firefighter;
 33 ~~(D)~~ an emergency medical services provider;
 34 ~~(E)~~ a dispatcher;
 35 ~~(F)~~ an emergency response communication employee;
 36 ~~(G)~~ emergency management personnel; or
 37 ~~(H)~~ a rescue service provider. **has the meaning set forth in**
 38 **IC 10-10.5-2-1.**

39 **(8) "First responder recipient" means an individual who is a**
 40 **first responder and receives CISM services, peer support**
 41 **services, or both.**

42 **(9) "Peer support services" means services provided by a**



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person who:
(A) is a first responder working for the same department or public agency that the first responder recipient works for; and
(B) acts:
(i) in the person's official capacity as a peer support team member; and
(ii) within the written peer support guidelines that are in effect for the person's respective first responder agency program.

The term includes active listening, assessment, mentoring, crisis intervention, or other support services provided to an employee experiencing personal or professional difficulties that may or may not be a result of the employee's exposure to highly stressful critical incidents.

(10) "Peer support team member" means a first responder who:

(A) has successfully completed peer support training; and
(B) is designated a peer support team member; by the head of the first responder's agency or the president of the bargaining unit of the employees of the department or agency.

SECTION 3. IC 36-8-2.5-2, AS ADDED BY P.L.137-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) Except as otherwise provided in this section, a communication made by an emergency first responder recipient to:

- (1) a CISM services provider while the emergency first responder recipient receives CISM services; or**
- (2) a peer support team member while the first responder recipient receives peer support services;**

is confidential. and A CISM services provider or peer support team member may not be compelled to testify or otherwise disclose the communication may not be disclosed in a civil, criminal, or administrative proceeding without the consent of the first responder recipient.

(b) Except as otherwise provided in this section, a record of a communication kept by:

- (1) a CISM services provider relating to CISM services; provided to an emergency responder; or**
- (2) a peer support team member relating to peer support services;**

provided to a first responder recipient is confidential and is not



1 subject to subpoena, discovery, or introduction into evidence in a civil,
2 criminal, or administrative proceeding.

3 ~~(b)~~ **(c)** A communication ~~or record described in subsection (a)~~ is
4 confidential for purposes of IC 5-14-3.

5 ~~(c)~~ **(d)** A communication ~~or record described in subsection (a)~~ is not
6 confidential for the following purposes: **and may be disclosed for the**
7 **following purposes:**

8 (1) The CISM services provider ~~or peer support team member~~
9 **may disclose the communication to make** a referral for
10 the ~~emergency first responder recipient~~.

11 (2) The CISM services provider ~~or peer support team member~~
12 **consults may disclose the communication to consult** about the
13 ~~emergency first responder recipient~~ with ~~another~~ a CISM
14 services provider, ~~peer support team member~~, or an appropriate
15 professional associated with the CISM team ~~or peer support~~
16 **team.**

17 (3) The CISM services provider ~~or peer support team member~~
18 **may disclose the communication to the extent reasonably**
19 **necessary to prevent a first responder recipient from**
20 **committing a crime or fraud that the CISM services provider**
21 **or peer support team member reasonably believes is likely to**
22 **result in death, substantial bodily harm, or substantial**
23 **economic injury to another.**

24 **(e) A communication is not confidential if:**

25 ~~(3)~~ **(1)** the communication conveys information that the
26 ~~emergency first responder recipient~~ poses or appears to pose an
27 imminent threat of harm to the ~~emergency first responder~~
28 ~~recipient~~, a CISM services provider, ~~a peer support team~~
29 ~~member~~, or another individual;

30 ~~(4)~~ **(2)** the communication conveys information relating to child,
31 ~~spousal~~, or elder abuse;

32 ~~(5)~~ **(3)** the ~~emergency first responder recipient~~ or the legal
33 representative of the ~~emergency first responder recipient~~
34 expressly agrees that the ~~emergency first responder's responder~~
35 ~~recipient's~~ communication is not confidential;

36 **(4)** the CISM services provider ~~or the peer support team~~
37 ~~member~~ was a witness or a party to the incident that led to the
38 ~~provision of CISM services or peer support services; or~~

39 **(5)** the first responder recipient consents to the disclosure of
40 ~~the communication.~~

41 SECTION 4. IC 36-8-2.5-3, AS ADDED BY P.L.137-2017,
42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2021]: Sec. 3. (a) Except as provided in subsection ~~(b)~~; **(c)**, a
2 CISM team or a CISM services provider providing CISM services is
3 not liable for damages for any act, error, or omission committed by the
4 CISM team or the CISM services provider in performing CISM
5 services in accordance with this chapter, including:

- 6 (1) personal injury;
7 (2) wrongful death;
8 (3) property damage; or
9 (4) other loss;

10 unless the act, error, or omission constitutes wanton, willful, or
11 intentional misconduct.

12 **(b) Except as provided in subsection (c), a peer support services**
13 **team or a peer support services team member providing peer**
14 **support services is not liable for damages for any act, error, or**
15 **omission committed by the peer support team or the peer support**
16 **team member in performing peer support services in accordance**
17 **with this chapter, including:**

- 18 (1) personal injury;
19 (2) wrongful death;
20 (3) property damage; or
21 (4) other loss;

22 unless the act, error, or omission constitutes wanton, willful, or
23 intentional misconduct.

24 ~~(b)~~ **(c)** Subsection ~~(a)~~ **This section** does not apply to an action for
25 medical malpractice.



COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security and Transportation, to which was referred Senate Bill No. 77, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 77 as introduced.)

CRIDER, Chairperson

Committee Vote: Yeas 8, Nays 0

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