**2311-S2 AMH DAVI H3260.2 - NOT FOR FLOOR USE**

**2SHB 2311** - H AMD **938**

By Representative Davis

**ADOPTED 02/10/2024**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall convene a task force on first responder wellness in Washington state. To the extent possible, the membership of the task force should include representatives that reflect the diversity of the first responder professions, including diversity in geography, gender, sexuality, and race.

(2) The first responder wellness task force shall be cochaired by the executive director of the commission, or the executive director's designee, and a representative of the fire service, and consist of the following additional membership:

(a) Two members from each of the following professions:

(i) Emergency medical services frontline providers;

(ii) Emergency dispatchers; and

(iii) Jail corrections officers;

(b) One member from each of the following entities:

(i) The Washington council of police and sheriffs;

(ii) The Washington state fraternal order of police;

(iii) The Washington state patrol troopers association;

(iv) The Washington state patrol lieutenants and captains association;

(v) The Washington association of sheriffs and police chiefs;

(vi) The Washington state council of firefighters;

(vii) The Washington fire chiefs association;

(viii) The Washington state firefighters' association;

(ix) The department of labor and industries;

(x) The state board for volunteer firefighters and reserve officers;

(xi) The state chapter of the association of public safety communications officials;

(xii) The state chapter of the national emergency number association; and

(xiii) International brotherhood of teamsters local 117;

(c) Two members representing the interests of tribal law enforcement officers and agencies;

(d) Two members representing the interests of tribal first responders;

(e) Two members from the Washington association of coroners and medical examiners;

(f) One member from the University of Washington department of psychiatry and behavioral sciences, who has implemented a regional state-funded law enforcement officer wellness program;

(g) One member from the Washington federation of state employees, representing the interests of the department of corrections' community corrections officers;

(h) The chief of the Washington state patrol, or the chief's designee;

(i) The secretary of the department of corrections, or the secretary's designee; and

(j) Any other members that the commission determines should participate in the task force to represent the interests of first responders.

(3) The commission shall convene the initial meeting of the task force no later than December 1, 2024.

(4) At a minimum, the task force shall meet quarterly.

(5) The task force shall:

(a) Monitor the implementation of this act;

(b) Evaluate the findings and recommendations of the task force on law enforcement officer mental health and wellness in Washington state as established under chapter 327, Laws of 2020 (SSB 6570), and determine ways in which the task force on first responder wellness may continue developing upon the recommendations of the task force on law enforcement officer mental health and wellness; and

(c) Make recommendations to improve first responder wellness across the first responder professions in the state.

(6)(a) The task force shall also develop and publish model policies for first responder peer support services tailored to the following first responder professions:

(i) Law enforcement officers;

(ii) Firefighters;

(iii) Emergency medical services frontline providers;

(iv) Emergency dispatchers;

(v) Corrections officers; and

(vi) Coroners and medical examiners.

(b) The task force must design the model policies to support efforts to establish and expand peer support services opportunities and networks for the professions specified under (a) of this subsection, and to develop best practices and resources for peer supporters from those professions.

(c) In developing the model policies, the task force must obtain the services of an organization with expertise in peer emotional support and peer workforce development to provide technical assistance.

(d) The task force must publish the model policies by December 31, 2025.

(7) Beginning December 1, 2025, the task force shall submit an annual report to the legislature on the status of its work.

(8) This section expires December 31, 2028.

NEW SECTION. **Sec.**  A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall contract with an organization with expertise in peer emotional support and peer workforce development to develop and administer a 40-hour training program for first responder peer supporters. The contracting organization must have prior experience developing peer support training for first responders in the state.

(2) The contracting organization must engage in in-depth consultation with law enforcement officers, corrections officers, firefighters, emergency services dispatchers or recordkeepers, and emergency medical personnel when developing the training program, and compensate the first responders for their consultation.

(3) A portion of the training program's curriculum must be relevant to all first responder professions, and a portion must be specifically curated to address the unique needs of each first responder profession.

(4) The contracting organization must complete development of the training program and begin administering it by August 1, 2025.

(5) The contracting organization must utilize current or retired first responders as cotrainers to deliver the training program.

(6) For the purposes of this section:

(a) "First responder" has the same meaning as defined in RCW 5.60.060; and

(b) "Peer supporter" has the same meaning as defined in RCW 5.60.060.

NEW SECTION. **Sec.**  A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall contract with an organization with expertise in mental health and substance use disorder counseling and treatment of first responders to develop and administer training for mental health and substance use disorder professionals to engender familiarity and cultural competency in the treatment of first responder clients.

(2) The contracting organization must consult with mental health professionals, substance use disorder professionals, law enforcement officers, corrections officers, firefighters, emergency services dispatchers or recordkeepers, and emergency medical personnel when developing the training.

(3) The contracting organization may develop the training to have in-person, virtual, and hybrid participation options to expand availability and accessibility of the training.

(4) The commission must direct the contracting organization to offer a set number of training opportunities annually as determined by the commission, provided free of charge, to mental health and substance use disorder professionals who are interested in treating first responder clients.

(5) For the purposes of this section, "first responder" has the same meaning as defined in RCW 5.60.060.

NEW SECTION. **Sec.**  A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall contract with an organization that provides free and confidential crisis response and referral services for Washington state active and retired first responders and their families, to develop and maintain:

(a) A first responder peer support network, which may include individual and group support options to help first responder peer supporters address the vicarious trauma and secondary traumatic stress incurred by performing their peer support duties; and

(b) A directory of licensed mental health and substance use disorder professionals who have cultural competency, experience, and training with treating first responders, which must indicate whether such professionals have completed the training established under section 3 of this act.

(2) The commission may also contract with an organization with expertise in peer emotional support and peer workforce development to provide technical assistance in developing the first responder peer support network described in subsection (1)(a) of this section.

(3) For the purposes of this section:

(a) "First responder" has the same meaning as defined in RCW 5.60.060; and

(b) "Peer supporters" has the same meaning as defined in RCW 5.60.060.

NEW SECTION. **Sec.**  A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall establish and administer a grant program to provide funding to first responder entities and agencies for the implementation or expansion of peer support services programs.

(2) Any first responder entity or agency that receives funding through the grant program must:

(a) Ensure that every peer supporter designated by the entity or agency enrolls in and completes the 40-hour training program established under section 2 of this act after it is made available;

(b) Compensate every peer supporter designated by the entity or agency for their services in that role; and

(c) Provide information to every peer supporter designated by the entity or agency about the first responder peer support network established under section 4(1)(a) of this act.

(3) For the purposes of this section:

(a) "First responder" has the same meaning as defined in RCW 5.60.060; and

(b) "Peer supporter" has the same meaning as defined in RCW 5.60.060.

**Sec.**  RCW 5.60.060 and 2023 c 202 s 2 are each amended to read as follows:

(1) A spouse or domestic partner shall not be examined for or against his or her spouse or domestic partner, without the consent of the spouse or domestic partner; nor can either during marriage or during the domestic partnership or afterward, be without the consent of the other, examined as to any communication made by one to the other during the marriage or the domestic partnership. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse or domestic partner if the marriage or the domestic partnership occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said spouse or domestic partner against any child of whom said spouse or domestic partner is the parent or guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW: PROVIDED, That the spouse or the domestic partner of a person sought to be detained under chapter 71.05 or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy, a Christian Science practitioner listed in the Christian Science Journal, or a priest shall not, without the consent of a person making the confession or sacred confidence, be examined as to any confession or sacred confidence made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 71.05.217 (6) and (7), a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer ((~~support group counselor~~)) supporter shall not, without consent of the peer support ((~~group client~~)) services recipient making the communication, be compelled to testify about any communication made to the ((~~counselor~~)) peer supporter by the peer support ((~~group client~~)) services recipient while receiving ((~~counseling~~)) individual or group services. The ((~~counselor~~)) peer supporter must be designated as such by ((~~the~~)) their employing agency ((~~employing the peer support group client~~)) prior to ((~~the incident that results in counseling~~)) providing peer support services. The privilege only applies when the communication was made to the ((~~counselor~~)) peer supporter while acting in his or her capacity as a peer ((~~support group counselor~~)) supporter. The privilege applies regardless of whether the peer support services recipient is an employee of the same agency as the peer supporter. Peer support services may be coordinated or designated among first responder agencies pursuant to chapter 10.93 RCW, interlocal agreement, or other similar provision, provided however that a written agreement is not required for the privilege to apply. The privilege does not apply if the ((~~counselor~~)) peer supporter was an initial responding first responder, department of corrections staff person, or jail staff person; a witness; or a party to the incident which prompted the delivery of peer support ((~~group counseling~~)) services to the peer support ((~~group client~~)) services recipient.

(b) For purposes of this section:

(i) "First responder" means:

(A) A law enforcement officer;

(B) A limited authority law enforcement officer;

(C) A firefighter;

(D) An emergency services dispatcher or recordkeeper;

(E) Emergency medical personnel, as licensed or certified by this state; ((~~or~~))

(F) A member or former member of the Washington national guard acting in an emergency response capacity pursuant to chapter 38.52 RCW; or

(G) A coroner or medical examiner, or a coroner's or medical examiner's agent or employee.

(ii) "Law enforcement officer" means a general authority Washington peace officer as defined in RCW 10.93.020.

(iii) "Limited authority law enforcement officer" means a limited authority Washington peace officer as defined in RCW 10.93.020 who is employed by the department of corrections, state parks and recreation commission, department of natural resources, liquor and cannabis board, or Washington state gambling commission.

(iv) "Peer support ((~~group client~~)) services recipient" means:

(A) A first responder;

(B) A department of corrections staff person; or

(C) A jail staff person.

(v) "Peer ((~~support group counselor~~)) supporter" means:

(A) A first responder, retired first responder, department of corrections staff person, or jail staff person or a civilian employee of a first responder entity or agency, local jail, or state agency who has received training to provide emotional and moral support and ((~~counseling~~)) services to a peer support ((~~group client~~)) services recipient who needs those services as a result of an incident or incidents in which the peer support ((~~group client~~)) services recipient was involved while acting in his or her official capacity or to deal with other stress that is impacting the peer support services recipient's performance of official duties; or

(B) A nonemployee ((~~counselor~~)) who has been designated by the first responder entity or agency, local jail, or state agency to provide emotional and moral support and counseling to a peer support ((~~group client~~)) services recipient who needs those services as a result of an incident or incidents in which the peer support ((~~group client~~)) services recipient was involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means the employee or volunteer from a community sexual assault program or underserved populations provider, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

(8) A domestic violence advocate may not, without the consent of the victim, be examined as to any communication between the victim and the domestic violence advocate.

(a) For purposes of this section, "domestic violence advocate" means an employee or supervised volunteer from a community‑based domestic violence program or human services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor's office, or the child protective services section of the department of children, youth, and families as defined in RCW 26.44.020.

(b) A domestic violence advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. This section does not relieve a domestic violence advocate from the requirement to report or cause to be reported an incident under RCW 26.44.030(1) or to disclose relevant records relating to a child as required by RCW 26.44.030(15). Any domestic violence advocate participating in good faith in the disclosing of communications under this subsection is immune from liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this subsection, the good faith of the domestic violence advocate who disclosed the confidential communication shall be presumed.

(9) A mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW may not disclose, or be compelled to testify about, any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

(a) With the written authorization of that person or, in the case of death or disability, the person's personal representative;

(b) If the person waives the privilege by bringing charges against the mental health counselor licensed under chapter 18.225 RCW;

(c) In response to a subpoena from the secretary of health. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;

(d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.217 (6) or (7); or

(e) To any individual if the mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose.

(10) An individual who acts as a sponsor providing guidance, emotional support, and counseling in an individualized manner to a person participating in an alcohol or drug addiction recovery fellowship may not testify in any civil action or proceeding about any communication made by the person participating in the addiction recovery fellowship to the individual who acts as a sponsor except with the written authorization of that person or, in the case of death or disability, the person's personal representative.

(11)(a) Neither a union representative nor an employee the union represents or has represented shall be examined as to, or be required to disclose, any communication between an employee and union representative or between union representatives made in the course of union representation except:

(i) To the extent such examination or disclosure appears necessary to prevent the commission of a crime that is likely to result in a clear, imminent risk of serious physical injury or death of a person;

(ii) In actions, civil or criminal, in which the represented employee is accused of a crime or assault or battery;

(iii) In actions, civil or criminal, where a union member is a party to the action, the union member may obtain a copy of any statement previously given by that union member concerning the subject matter of the action and may elicit testimony concerning such statements. The right of the union member to obtain such statements, or the union member's possession of such statements, does not render them discoverable over the objection of the union member;

(iv) In actions, regulatory, civil, or criminal, against the union or its affiliated, subordinate, or parent bodies or their agents; or

(v) When an admission of, or intent to engage in, criminal conduct is revealed by the represented union member to the union representative.

(b) The privilege created in this subsection (11) does not apply to any record of communications that would otherwise be subject to disclosure under chapter 42.56 RCW.

(c) The privilege created in this subsection (11) may not interfere with an employee's or union representative's applicable statutory mandatory reporting requirements, including but not limited to duties to report in chapters 26.44, 43.101, and 74.34 RCW.

(d) For purposes of this subsection:

(i) "Employee" means a person represented by a certified or recognized union regardless of whether the employee is a member of the union.

(ii) "Union" means any lawful organization that has as one of its primary purposes the representation of employees in their employment relations with employers, including without limitation labor organizations defined by 29 U.S.C. Sec. 152(5) and 5 U.S.C. Sec. 7103(a)(4), representatives defined by 45 U.S.C. Sec. 151, and bargaining representatives defined in RCW 41.56.030, and employee organizations as defined in RCW 28B.52.020, 41.59.020, 41.80.005, 41.76.005, 47.64.011, and 53.18.010.

(iii) "Union representation" means action by a union on behalf of one or more employees it represents in regard to their employment relations with employers, including personnel matters, grievances, labor disputes, wages, rates of pay, hours of employment, conditions of work, or collective bargaining.

(iv) "Union representative" means a person authorized by a union to act for the union in regard to union representation.

(v) "Communication" includes any oral, written, or electronic communication or document containing such communication.

NEW SECTION. **Sec.**  Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, in the omnibus appropriations act, this act is null and void."

Correct the title.

EFFECT: (1) Expands the definition of "first responder" to include coroners and medical examiners and their agents and employees for the purposes of certain provisions related to first responder peer support trainings, resources, grants, and testimonial privileges.

(2) Expands the membership of the task force on first responder wellness to include two members, rather than one, representing the interests of tribal law enforcement officers and agencies; two members representing the interests of tribal first responders; and two members from the Washington Association of Coroners and Medical Examiners.

(3) Requires the task force on first responder wellness to develop and publish model policies for peer support services tailored to coroners and medical examiners in addition to model policies for other first responder professions.

(4) Requires a peer supporter to be designated as such by the person's employing agency prior to providing peer support services, rather than prior to the incident that results in services.

(5) Provides that peer support services may be coordinated or designated among agencies pursuant to the Washington Mutual Aid Peace Officers Powers Act, an interlocal agreement, or other similar provisions, provided however that a written agreement is not required for the related testimonial privileges to apply.

(6) Expands the definition of "peer supporter" to include a nonemployee, rather than a nonemployee counselor, designated by a qualifying entity to provide emotional and moral support and services to a peer support services recipient.

(7) Adds an emergency clause and immediate effective date for the amendatory provisions of the bill related to the testimonial privileges for certain peer support communications.