

# HOUSE BILL REPORT

## E2SHB 2311

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### As Passed Legislature

**Title:** An act relating to supporting first responder wellness and peer support.

**Brief Description:** Supporting first responder wellness and peer support.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Davis, Maycumber, Paul, Robertson, Callan, Mosbrucker, Goodman, Griffey, Stearns, Reed, Ryu, Couture, Ramel, Ortiz-Self, Eslick, Bateman, Riccelli, Timmons, Simmons, Fosse, Peterson, Pollet and Shavers).

### Brief History:

#### Committee Activity:

Community Safety, Justice, & Reentry: 1/23/24, 1/29/24 [DPS];  
Appropriations: 2/5/24 [DP2S(w/o sub CSJR)].

#### Floor Activity:

Passed House: 2/10/24, 97-0.  
Passed Senate: 3/1/24, 49-0.  
Passed Legislature.

### Brief Summary of Engrossed Second Substitute Bill

- Requires the Criminal Justice Training Commission (CJTC) to convene a task force on first responder wellness in the state.
- Requires the CJTC to contract with certain entities to develop a 40-hour training program for first responder peer supporters, a cultural competency training for mental health and substance use disorder (SUD) professionals, a first responder peer support network, and a directory of mental health and SUD professionals.
- Requires the CJTC to establish and administer a grant program to provide funding for the implementation or expansion of first responder peer support services.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

- Modifies certain statutory provisions related to peer support services and the testimonial privilege for related communications.

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## HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

**Staff:** Corey Patton (786-7388).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Community Safety, Justice, & Reentry. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

**Staff:** Emily Stephens (786-7157).

### **Background:**

#### Testimonial Privilege for Peer Support Group Clients.

The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. However, common law and statutory law both recognize exceptions to the court's authority to compel testimony, including situations where there is an applicable testimonial privilege. Such privileges protect certain classes of relationships or communications within those relationships.

For example, state law recognizes a number of testimonial privileges, including a privilege for communications between peer support group clients and counselors. This privilege specifically protects communications made by a peer support group client to a designated counselor while receiving counseling. The counselor may not be compelled to testify in a judicial proceeding about the client's communications unless the client consents to disclosure. This privilege applies only to communications made to a counselor acting in his or her capacity as a counselor. This privilege does not apply if the counselor was not designated as such by the client's employing agency prior to the incident that resulted in

counseling, or if the counselor was an initial responder, witness, or party to the incident.

"First responder" means a law enforcement officer, limited authority law enforcement officer, firefighter, emergency services dispatcher or record keeper, licensed or certified emergency medical personnel, or member or former member of the Washington National Guard acting in certain capacities. A "peer support group client" means a first responder, Department of Corrections staff person, or jail staff person. A "peer support group counselor" means a person who has received training to provide emotional and moral support and counseling to a peer support group client who needs such services as a result of an incident in which the client was involved while acting in his or her official capacity.

Task Force on Law Enforcement Officer Mental Health and Wellness in Washington.

In 2020 the Legislature passed Substitute Senate Bill 6570, which required the Department of Health to convene a task force on law enforcement officer mental health and wellness in the state. The task force was responsible for reviewing specified data, recommendations, and options related to improving the behavioral health status of law enforcement officers and reducing the prevalence of mental health disorder and suicide risk. The task force published a related report to the Governor and the Legislature in December of 2021, which contained the following recommendations to:

- fund culturally and linguistically tailored programming and services that support emotional wellness for law enforcement personnel and their families;
- support local jurisdictions with comprehensive planning and implementation of data-driven policies and procedures to increase law enforcement personnel wellness, reduce suicide workforce rates, and increase help-seeking behaviors for officers and their families;
- expand behavioral health services tailored for law enforcement;
- increase lethal means safety and safety planning; and
- develop comprehensive statewide behavioral health and suicide research and data about the law enforcement sector.

**Summary of Engrossed Second Substitute Bill:**

Testimonial Privilege for Peer Support Clients.

Effective immediately, the testimonial privilege that protects communications made by a first responder peer support group client to a counselor is modified as follows:

- Statutory references to "peer support counseling" are changed to "peer support services"
- The term "peer support group client" is changed to "peer support services recipient."
- The term "peer support group counselor" is changed to "peer supporter" and expanded to include designated nonemployees, retired first responders, and persons with training to provide emotional and moral support and services to a peer support services recipient for other stress that is impacting the services recipient's performance of official duties.
- The term "first responder" is expanded to include coroners and medical examiners

and their agents and employees.

- The testimonial privilege applies regardless of when the peer supporter was designated as such, or whether the services recipient is an employee of the same agency as the peer supporter.
- 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; however, a written agreement is not required for the related testimonial privilege to apply.

#### Task Force on First Responder Wellness in Washington.

The Criminal Justice Training Commission (CJTC) must, subject to appropriations, convene a task force on first responder wellness in the state (Task Force). The Task Force must be cochaired by the Executive Director of the CJTC, or the Executive Director's designee, and a representative of the fire service. The Task Force must consist of the following additional membership:

- two members from the emergency medical services frontline provider profession;
- two members from the emergency dispatcher profession;
- two members from the jail corrections officer profession;
- one member from the Washington Council of Police and Sheriffs (WACOPS);
- one member from the Washington State Fraternal Order of Police (FOP);
- one member from the Washington State Patrol (WSP) Troopers Association;
- one member from the WSP Lieutenants and Captains Association;
- one member from the Washington Association of Sheriffs and Police Chiefs (WASPC);
- one member from the Washington State Council of Firefighters;
- one member from the Washington Fire Chiefs Association;
- one member from the Washington State Firefighters' Association;
- one member from the Department of Labor and Industries;
- one member from the state Board for Volunteer Firefighters and Reserve Officers;
- one member from the state chapter of the Association of Public Safety Communications Officials;
- one member from the state chapter of the National Emergency Number Association;
- one member from the International Brotherhood of Teamsters Local 117;
- two members representing the interests of tribal law enforcement officers and agencies;
- two members representing the interests of tribal first responders;
- two members from the Washington Association of Coroners and Medical Examiners;
- one member from the University of Washington's Department of Psychiatry and Behavioral Sciences, who has implemented a regional state-funded law enforcement officer wellness program;
- one member from the Washington Federation of State Employees, to represent the interests of the Department of Corrections' (DOC) community corrections officers;
- the Chief of the WSP, or the Chief's designee;
- the Secretary of the DOC, or the Secretary's designee; and

- any other members that the CJTC determines should participate in the Task Force to represent the interests of first responders.

The CJTC must convene the initial Task Force meeting by December 1, 2024, and the Task Force must continue to meet at least quarterly. The Task Force must:

- monitor the implementation of this act;
- evaluate the findings and recommendations of the task force on law enforcement officer mental health and wellness established under Chapter 327, Laws of 2020 (Substitute Senate Bill 6570), and determine ways to continue developing on that work;
- make recommendations to improve wellness across the first responder professions in the state; and
- develop and publish, by December 31, 2025, model policies for first responder peer support services tailored to law enforcement officers, firefighters, emergency medical services frontline providers, emergency dispatchers, corrections officers, and coroners and medical examiners.

The Task Force must design its model policies to support efforts to establish and expand peer support services opportunities and networks, and to develop best practices and resources for peer supporters. In developing its model policies, the Task Force must obtain the services of an organization with expertise in peer emotional support and workforce development to provide technical assistance.

Beginning December 1, 2025, the Task Force must submit an annual report to the Legislature on the status of its work. The Task Force expires on December 31, 2028.

#### Trainings, Resources, and Grant Program.

The CJTC must, subject to appropriations, contract to develop certain trainings and resources related to first responder wellness and peer support, and a grant program to fund implementation or expansion of first responder peer support services programs.

#### *Training for First Responder Peer Supporters.*

The CJTC must contract with an organization with expertise in peer emotional support and 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. The contracting organization must consult with members of specified first responder professions when developing the training program, and compensate the first responders for such consultation. 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. The contracting organization must complete development of the training program and begin administering it by August 1, 2025, and utilize current or retired first responders as cotrainers.

*Training for Mental Health and Substance Use Disorder Professionals.*

The CJTC must contract with an organization with expertise in mental health and substance use disorder (SUD) counseling and treatment of first responders to develop and administer training for mental health and SUD professionals to engender familiarity and cultural competency in the treatment of first responder clients. The contracting organization must consult with mental health and SUD professionals, and members of specified first responder professions. The contracting organization may develop the training to have in person, virtual, and hybrid participation options. The CJTC must direct the contracting organization to offer a set number of free training opportunities annually.

*First Responder Peer Support Network and Directory of Licensed Professionals.*

The CJTC must contract with an organization that provides free and confidential crisis response and referral services for first responders and their families, to develop and maintain:

- a first responder peer support network, which may include individual and group support options to help first responder peer supporters address vicarious trauma and secondary traumatic stress; and
- a directory of licensed mental health and SUD professionals who have cultural competency, experience, and training with treating first responders, which must indicate whether such professionals have completed the CJTC's training for mental health and SUD professionals.

The CJTC may contract with an organization with expertise in peer emotional support and workforce development to provide technical assistance in developing the first responder peer support network.

*First Responder Peer Support Services Grant Program.*

The CJTC must 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. Any entity or agency that receives funding through the grant program must:

- ensure that every peer supporter designated by the entity or agency enrolls in and completes the CJTC's 40-hour training program;
- compensate every peer supporter designated by the entity or agency for their services; and
- provide information to every peer supporter designated by the entity or agency about the CJTC's first responder peer support network.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Section 6 of the bill contains an emergency clause and takes effect immediately. The remainder of the bill takes effect 90 days after adjournment of the session

in which the bill is passed. However, the bill is null and void unless funded in the budget.

**Staff Summary of Public Testimony (Community Safety, Justice, & Reentry):**

(In support) In 2020 the Legislature mandated research into law enforcement officer wellness, which revealed a lack of wellness programs and resources. The Legislature also recognized that first responders are at a higher risk of suicide because of the things they encounter in their respective lines of work. For example, officer death by suicide is one and a half times more likely to occur than line-of-duty death. We know more about trauma and wellness today than we have known historically. Statistics indicate that over 37 percent of first responders have post-traumatic stress disorder, which often goes untreated. First responders are heroes who perform incredibly difficult and dangerous work, and each profession responds to uniquely challenging and traumatic scenes. They encounter the worst things that people are capable of on a daily basis, and the cumulative trauma they experience is phenomenal. As emergency calls continue to grow in number and severity, the mental toll on first responders increases. With so many competing priorities, it can be difficult for first responders to prioritize their wellbeing and self care. This is a huge issue that we simply cannot do enough to address.

We have done virtually nothing for certain categories of first responders, such as emergency dispatchers, emergency medical services professionals, and corrections officers. This bill makes the smallest gesture to honor and respect the tremendous good that first responders provide to our communities by implementing peer support programs across the state, supporting trauma informed practices, and ensuring that first responders are overall healthier and well adjusted. First responder peer support programs and the culture of seeking and accepting help have been jeopardized by recent events that threaten to allow the compulsion of testimony. Peer support is a best practice of care for people doing a difficult and necessary job. This bill recognizes the importance of protecting the trusting relationship between first responders and peer support counselors.

It would be beneficial to include additional members on the Task Force created by this bill who would represent the interests of public safety telecommunicators. This bill will also have fiscal impacts that require additional funding to appropriately implement.

(Opposed) None.

(Other) The Task Force created by this bill includes various members representing different first responder professions, but the Washington Federation of State Employees and community corrections officers are currently not represented. Community corrections officers have a unique line of work that has been affected by recent changes to the model of incarceration in the state. These workers are important to include as part of the Task Force.

**Staff Summary of Public Testimony (Appropriations):**

(In support) There is no training currently for first responders providing peer support. Recent court rulings have changed the rules around testimonial privilege and peer support. Wellness for first responders is very important. Peer support teams are invaluable. Many departments around the state do not have peer support. Peer support teams can reach out to individuals who are struggling and help them get back to work quickly. Public safety providers will be more resilient with additional peer support.

(Opposed) None.

**Persons Testifying (Community Safety, Justice, & Reentry):** (In support)

Representative Lauren Davis, prime sponsor; Jason Fritz, Washington Chapter of the Association of Public Safety and Communications Officials and National Emergency Number Association; Casey Novak, Tacoma Fire Department; Lacey Ledford, Washington State Criminal Justice Training Commission; B.J. Myers, King County Sheriff's Office; Steve Johnson, Code 4 Northwest; James McMahan, Washington Association of Sheriffs and Police Chiefs; Charlie Scoma, Seattle Police Wellness Unit; and Mac Pevey, Washington State Department of Corrections.

(Other) Kati Durkin, Washington Federation of State Employees.

**Persons Testifying (Appropriations):** Representative Lauren Davis, prime sponsor; James McMahan, Washington Association of Sheriffs and Police Chiefs; and AJ Johnson, Washington State Council of Firefighters.

**Persons Signed In To Testify But Not Testifying (Community Safety, Justice, & Reentry):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.