

2SHB 2311 - H AMD 938

By Representative Davis

ADOPTED 02/10/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.101
4 RCW to read as follows:

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

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

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

16 (i) Emergency medical services frontline providers;

17 (ii) Emergency dispatchers; and

18 (iii) Jail corrections officers;

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

20 (i) The Washington council of police and sheriffs;

21 (ii) The Washington state fraternal order of police;

22 (iii) The Washington state patrol troopers association;

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

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

26 (vi) The Washington state council of firefighters;

27 (vii) The Washington fire chiefs association;

28 (viii) The Washington state firefighters' association;

29 (ix) The department of labor and industries;

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

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

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

5 (xiii) International brotherhood of teamsters local 117;

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

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

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

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

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

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

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

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

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

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

28 (5) The task force shall:

29 (a) Monitor the implementation of this act;

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

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

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

- 1 (i) Law enforcement officers;
- 2 (ii) Firefighters;
- 3 (iii) Emergency medical services frontline providers;
- 4 (iv) Emergency dispatchers;
- 5 (v) Corrections officers; and
- 6 (vi) Coroners and medical examiners.

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

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

16 (d) The task force must publish the model policies by December
17 31, 2025.

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

20 (8) This section expires December 31, 2028.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.101
22 RCW to read as follows:

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

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

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

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

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

5 (6) For the purposes of this section:

6 (a) "First responder" has the same meaning as defined in RCW
7 5.60.060; and

8 (b) "Peer supporter" has the same meaning as defined in RCW
9 5.60.060.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.101
11 RCW to read as follows:

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

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

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

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

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

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.101
35 RCW to read as follows:

36 (1) Subject to the availability of amounts appropriated for this
37 specific purpose, the commission shall contract with an organization
38 that provides free and confidential crisis response and referral

1 services for Washington state active and retired first responders and
2 their families, to develop and maintain:

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

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

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

16 (3) For the purposes of this section:

17 (a) "First responder" has the same meaning as defined in RCW
18 5.60.060; and

19 (b) "Peer supporters" has the same meaning as defined in RCW
20 5.60.060.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.101
22 RCW to read as follows:

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

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

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

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

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

38 (3) For the purposes of this section:

1 (a) "First responder" has the same meaning as defined in RCW
2 5.60.060; and

3 (b) "Peer supporter" has the same meaning as defined in RCW
4 5.60.060.

5 **Sec. 6.** RCW 5.60.060 and 2023 c 202 s 2 are each amended to read
6 as follows:

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

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

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

35 (3) A member of the clergy, a Christian Science practitioner
36 listed in the Christian Science Journal, or a priest shall not,
37 without the consent of a person making the confession or sacred
38 confidence, be examined as to any confession or sacred confidence
39 made to him or her in his or her professional character, in the

1 course of discipline enjoined by the church to which he or she
2 belongs.

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

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

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

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

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

1 which prompted the delivery of peer support (~~(group counseling)~~)
2 services to the peer support (~~(group client)~~) services recipient.

3 (b) For purposes of this section:

4 (i) "First responder" means:

5 (A) A law enforcement officer;

6 (B) A limited authority law enforcement officer;

7 (C) A firefighter;

8 (D) An emergency services dispatcher or recordkeeper;

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

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

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

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

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

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

24 (A) A first responder;

25 (B) A department of corrections staff person; or

26 (C) A jail staff person.

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

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

38 (B) A nonemployee (~~(counselor)~~) who has been designated by the
39 first responder entity or agency, local jail, or state agency to
40 provide emotional and moral support and counseling to a peer support

1 ((~~group client~~)) services recipient who needs those services as a
2 result of an incident or incidents in which the peer support ((~~group~~
3 ~~client~~)) services recipient was involved while acting in his or her
4 official capacity.

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

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

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

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

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

1 (b) A domestic violence advocate may disclose a confidential
2 communication without the consent of the victim if failure to
3 disclose is likely to result in a clear, imminent risk of serious
4 physical injury or death of the victim or another person. This
5 section does not relieve a domestic violence advocate from the
6 requirement to report or cause to be reported an incident under RCW
7 26.44.030(1) or to disclose relevant records relating to a child as
8 required by RCW 26.44.030(15). Any domestic violence advocate
9 participating in good faith in the disclosing of communications under
10 this subsection is immune from liability, civil, criminal, or
11 otherwise, that might result from the action. In any proceeding,
12 civil or criminal, arising out of a disclosure under this subsection,
13 the good faith of the domestic violence advocate who disclosed the
14 confidential communication shall be presumed.

15 (9) A mental health counselor, independent clinical social
16 worker, or marriage and family therapist licensed under chapter
17 18.225 RCW may not disclose, or be compelled to testify about, any
18 information acquired from persons consulting the individual in a
19 professional capacity when the information was necessary to enable
20 the individual to render professional services to those persons
21 except:

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

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

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

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

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

38 (10) An individual who acts as a sponsor providing guidance,
39 emotional support, and counseling in an individualized manner to a
40 person participating in an alcohol or drug addiction recovery

1 fellowship may not testify in any civil action or proceeding about
2 any communication made by the person participating in the addiction
3 recovery fellowship to the individual who acts as a sponsor except
4 with the written authorization of that person or, in the case of
5 death or disability, the person's personal representative.

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

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

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

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

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

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

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

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

37 (d) For purposes of this subsection:

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

1 (ii) "Union" means any lawful organization that has as one of its
2 primary purposes the representation of employees in their employment
3 relations with employers, including without limitation labor
4 organizations defined by 29 U.S.C. Sec. 152(5) and 5 U.S.C. Sec.
5 7103(a)(4), representatives defined by 45 U.S.C. Sec. 151, and
6 bargaining representatives defined in RCW 41.56.030, and employee
7 organizations as defined in RCW 28B.52.020, 41.59.020, 41.80.005,
8 41.76.005, 47.64.011, and 53.18.010.

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

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

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

18 NEW SECTION. **Sec. 7.** Section 6 of this act is necessary for the
19 immediate preservation of the public peace, health, or safety, or
20 support of the state government and its existing public institutions,
21 and takes effect immediately.

22 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
23 this act, referencing this act by bill or chapter number, is not
24 provided by June 30, 2024, in the omnibus appropriations act, this
25 act is null and void."

26 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.

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