

# SENATE BILL REPORT

## E2SHB 2311

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As of February 23, 2024

**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:** Passed House: 2/10/24, 97-0.

**Committee Activity:** Law & Justice: 2/16/24, 2/20/24 [DP-WM].

**Ways & Means:** 2/23/24.

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

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### SENATE COMMITTEE ON LAW & JUSTICE

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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.*

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

**Staff:** William Bridges (786-7312)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Sarian Scott (786-7729)

**Background:** Testimonial Privilege for Peer Support Group Clients. The common law and statutes recognize testimonial privileges. For example, state law recognizes a testimonial privilege for communications between peer support group clients and counselors. In general, a counselor may not be compelled to testify in a judicial proceeding about the client's communications unless the client consents to disclosure.

A peer support group counselor is 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 their official capacity.

A peer support group client is a first responder, Department of Corrections (DOC) staff person, or jail staff person.

A first responder is 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.

Task Force on Law Enforcement Officer Mental Health and Wellness in Washington. In 2020, the Legislature 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 workforce suicide 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 Bill:** Modifying and Expanding the 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; and
- 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.

Creating a 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;
- one member from the Washington State Fraternal Order of Police;
- 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;
- 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 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 state law, 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.

Developing Trainings, Resources, and a 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:** The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**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.

**Staff Summary of Public Testimony (Law & Justice):** PRO: When the Legislature required peer support programs for first responders in the past, it failed to provide adequate training and resources to support those efforts. First responders carry heavy burdens that can be addressed through peer support programs. A recent case from the Clark County Superior Court points to the need to extend protection to the communications between peer support group clients and counselors.

**Persons Testifying (Law & Justice):** PRO: Representative Lauren Davis, Prime Sponsor; Andy McCurdy, Sumner Police Department.

**Persons Signed In To Testify But Not Testifying (Law & Justice):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: The value of peer support cannot be overstated. The provisions of this bill are worthy of supporting on their own. We have an urgent matter needing your attention. A judge in Clark County issued a ruling ordering all participants of a peer support meeting to be compelled to testify. Much of this language has been modified to avoid this happening in the future, which is why there is an emergency clause in the bill.

**Persons Testifying (Ways & Means):** PRO: James McMahan, WA Assoc Sheriffs & Police Chiefs.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.