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**SECOND SUBSTITUTE HOUSE BILL 2311**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** House 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)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to supporting first responder wellness and peer  
2 support; amending RCW 5.60.060; adding new sections to chapter 43.101  
3 RCW; creating a new section; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.101  
6 RCW to read as follows:

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

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

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

18 (i) Emergency medical services frontline providers;

19 (ii) Emergency dispatchers; and

20 (iii) Jail corrections officers;

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

- 1 (i) The Washington council of police and sheriffs;  
2 (ii) The Washington state fraternal order of police;  
3 (iii) The Washington state patrol troopers association;  
4 (iv) The Washington state patrol lieutenants and captains  
5 association;  
6 (v) The Washington association of sheriffs and police chiefs;  
7 (vi) The Washington state council of firefighters;  
8 (vii) The Washington fire chiefs association;  
9 (viii) The Washington state firefighters' association;  
10 (ix) The department of labor and industries;  
11 (x) The state board for volunteer firefighters and reserve  
12 officers;  
13 (xi) The state chapter of the association of public safety  
14 communications officials;  
15 (xii) The state chapter of the national emergency number  
16 association; and  
17 (xiii) International brotherhood of teamsters local 117;  
18 (c) One member representing the interests of tribal law  
19 enforcement officers and agencies;  
20 (d) One member from the University of Washington department of  
21 psychiatry and behavioral sciences, who has implemented a regional  
22 state-funded law enforcement officer wellness program;  
23 (e) One member from the Washington federation of state employees,  
24 representing the interests of the department of corrections'  
25 community corrections officers;  
26 (f) The chief of the Washington state patrol, or the chief's  
27 designee;  
28 (g) The secretary of the department of corrections, or the  
29 secretary's designee; and  
30 (h) Any other members that the commission determines should  
31 participate in the task force to represent the interests of first  
32 responders.

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

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

36 (5) The task force shall:

37 (a) Monitor the implementation of this act;

38 (b) Evaluate the findings and recommendations of the task force  
39 on law enforcement officer mental health and wellness in Washington  
40 state as established under chapter 327, Laws of 2020 (SSB 6570), and

1 determine ways in which the task force on first responder wellness  
2 may continue developing upon the recommendations of the task force on  
3 law enforcement officer mental health and wellness; and

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

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

9 (i) Law enforcement officers;

10 (ii) Firefighters;

11 (iii) Emergency medical services frontline providers;

12 (iv) Emergency dispatchers; and

13 (v) Corrections officers.

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

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

23 (d) The task force must publish the model policies by December  
24 31, 2025.

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

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

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

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

37 (2) The contracting organization must engage in in-depth  
38 consultation with law enforcement officers, corrections officers,  
39 firefighters, emergency services dispatchers or recordkeepers, and

1 emergency medical personnel when developing the training program, and  
2 compensate the first responders for their consultation.

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

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

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

11 (6) For the purposes of this section:

12 (a) "First responder" has the same meaning as defined in RCW  
13 5.60.060; and

14 (b) "Peer supporter" has the same meaning as defined in RCW  
15 5.60.060.

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

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

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

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

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

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

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

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

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

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

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

21        (3) For the purposes of this section:

22        (a) "First responder" has the same meaning as defined in RCW  
23   5.60.060; and

24        (b) "Peer supporters" has the same meaning as defined in RCW  
25   5.60.060.

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

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

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

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

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

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

4 (3) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

25 (6)(a) A peer (~~(support group counselor)~~) supporter shall not,  
26 without consent of the peer support (~~(group client)~~) services  
27 recipient making the communication, be compelled to testify about any  
28 communication made to the (~~(counselor)~~) peer supporter by the peer  
29 support (~~(group client)~~) services recipient while receiving  
30 (~~(counseling)~~) individual or group services. The (~~(counselor)~~) peer  
31 supporter must be designated as such by (~~(the)~~) their employing  
32 agency (~~(employing the peer support group client)~~) prior to the  
33 incident that results in (~~(counseling)~~) services. The privilege only  
34 applies when the communication was made to the (~~(counselor)~~) peer  
35 supporter while acting in his or her capacity as a peer (~~(support~~  
36 ~~group counselor)~~) supporter. The privilege applies regardless of  
37 whether the peer support services recipient is an employee of the  
38 same agency as the peer supporter. The privilege does not apply if  
39 the (~~(counselor)~~) peer supporter was an initial responding first  
40 responder, department of corrections staff person, or jail staff

1 person; a witness; or a party to the incident which prompted the  
2 delivery of peer support (~~(group counseling)~~) services to the peer  
3 support (~~(group client)~~) services recipient.

4 (b) For purposes of this section:

5 (i) "First responder" means:

6 (A) A law enforcement officer;

7 (B) A limited authority law enforcement officer;

8 (C) A firefighter;

9 (D) An emergency services dispatcher or recordkeeper;

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

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

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

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

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

23 (A) A first responder;

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

25 (C) A jail staff person.

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

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

37 (B) A nonemployee counselor who has been designated by the first  
38 responder entity or agency, local jail, or state agency to provide  
39 emotional and moral support and counseling to a peer support (~~(group~~  
40 ~~client)~~) services recipient who needs those services as a result of



1 an incident in which the peer support (~~group-client~~) services  
2 recipient was involved while acting in his or her official capacity.

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

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

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

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

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

38 (b) A domestic violence advocate may disclose a confidential  
39 communication without the consent of the victim if failure to  
40 disclose is likely to result in a clear, imminent risk of serious

1 physical injury or death of the victim or another person. This  
2 section does not relieve a domestic violence advocate from the  
3 requirement to report or cause to be reported an incident under RCW  
4 26.44.030(1) or to disclose relevant records relating to a child as  
5 required by RCW 26.44.030(15). Any domestic violence advocate  
6 participating in good faith in the disclosing of communications under  
7 this subsection is immune from liability, civil, criminal, or  
8 otherwise, that might result from the action. In any proceeding,  
9 civil or criminal, arising out of a disclosure under this subsection,  
10 the good faith of the domestic violence advocate who disclosed the  
11 confidential communication shall be presumed.

12 (9) A mental health counselor, independent clinical social  
13 worker, or marriage and family therapist licensed under chapter  
14 18.225 RCW may not disclose, or be compelled to testify about, any  
15 information acquired from persons consulting the individual in a  
16 professional capacity when the information was necessary to enable  
17 the individual to render professional services to those persons  
18 except:

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

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

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

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

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

35 (10) An individual who acts as a sponsor providing guidance,  
36 emotional support, and counseling in an individualized manner to a  
37 person participating in an alcohol or drug addiction recovery  
38 fellowship may not testify in any civil action or proceeding about  
39 any communication made by the person participating in the addiction  
40 recovery fellowship to the individual who acts as a sponsor except

1 with the written authorization of that person or, in the case of  
2 death or disability, the person's personal representative.

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

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

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

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

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

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

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

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

34 (d) For purposes of this subsection:

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

38 (ii) "Union" means any lawful organization that has as one of its  
39 primary purposes the representation of employees in their employment  
40 relations with employers, including without limitation labor

1 organizations defined by 29 U.S.C. Sec. 152(5) and 5 U.S.C. Sec.  
2 7103(a)(4), representatives defined by 45 U.S.C. Sec. 151, and  
3 bargaining representatives defined in RCW 41.56.030, and employee  
4 organizations as defined in RCW 28B.52.020, 41.59.020, 41.80.005,  
5 41.76.005, 47.64.011, and 53.18.010.

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

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

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

15 NEW SECTION. **Sec. 7.** If specific funding for the purposes of  
16 this act, referencing this act by bill or chapter number, is not  
17 provided by June 30, 2024, in the omnibus appropriations act, this  
18 act is null and void.

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