

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0725.01 Brita Darling x2241

HOUSE BILL 19-1147

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A BILL FOR AN ACT

101 **CONCERNING REVISIONS TO THE TRAUMATIC BRAIN INJURY PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill makes revisions to the Colorado traumatic brain injury program (program), including:

- ! Renaming the program, the trust fund board, and the trust fund to remove "traumatic" from the titles and making conforming amendments in other statutes to reflect the new names;
- ! Defining "brain injury" and removing the definition of "traumatic brain injury";

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Removing obsolete dates relating to trust fund board appointments;
- ! Removing the specific statutory listing of potential services under the program and clarifying that all persons served by the program receive service coordination and skills training and may receive other services as determined by the trust fund board;
- ! Allowing the trust fund board to prioritize services and eligibility for services;
- ! Removing a restriction on the use of general fund money for the program trust fund;
- ! Removing general provisions relating to the administration of the program; and
- ! Removing the fee collected by municipalities for speeding traffic offenses and increasing fees currently collected for other offenses for the benefit of the trust fund.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 26-1-301 as
 3 follows:

4 **26-1-301. Definitions.** As used in this part 3, unless the context
 5 otherwise requires:

6 (1) "Board" means the Colorado ~~traumatic~~ brain injury trust fund
 7 board created pursuant to section 26-1-302.

8 (1.5) (a) "BRAIN INJURY" REFERS TO DAMAGE TO THE BRAIN FROM
 9 AN INTERNAL OR EXTERNAL SOURCE THAT OCCURS POST-BIRTH AND IS
 10 NONCONGENITAL, NONDEGENERATIVE, AND NONHEREDITARY, RESULTING
 11 IN PARTIAL OR TOTAL FUNCTIONAL IMPAIRMENT IN ONE OR MORE AREAS,
 12 INCLUDING BUT NOT LIMITED TO ATTENTION, MEMORY, REASONING,
 13 PROBLEM SOLVING, SPEED OF PROCESSING, DECISION-MAKING, LEARNING,
 14 PERCEPTION, SENSORY IMPAIRMENT, SPEECH AND LANGUAGE, MOTOR AND
 15 PHYSICAL FUNCTIONING, OR PSYCHOSOCIAL BEHAVIOR.

16 (b) DOCUMENTATION OF BRAIN INJURY MUST BE BASED ON

1 ADEQUATE MEDICAL HISTORY. A BRAIN INJURY MUST BE OF SUFFICIENT
2 SEVERITY TO PRODUCE PARTIAL OR TOTAL DISABILITY.

3 (2) "Program" means the services provided pursuant to sections
4 ~~26-1-303 and 26-1-304~~ THIS PART 3.

5 (3) ~~"Traumatic brain injury" means injury to the brain caused by~~
6 ~~physical trauma resulting from but not limited to incidents involving~~
7 ~~motor vehicles, sporting events, falls, blast injuries, and physical assaults.~~
8 ~~Documentation of traumatic brain injury shall be based on adequate~~
9 ~~medical history, neurological examination, including mental status testing~~
10 ~~or neuropsychological evaluation. Where appropriate, neuroimaging may~~
11 ~~be used to support the diagnosis. A traumatic brain injury shall be of~~
12 ~~sufficient severity to produce partial or total disability as a result of~~
13 ~~impaired cognitive ability and physical function.~~

14 (4) "Trust fund" means the Colorado ~~traumatic~~ brain injury trust
15 fund created in section 26-1-309.

16 **SECTION 2.** In Colorado Revised Statutes, 26-1-302, **amend** (1),
17 (2)(b), (2)(d), (4), (8)(b), and (8)(d); and **add** (8.5) as follows:

18 **26-1-302. Colorado brain injury trust fund board - creation**
19 **- powers and duties.** (1) There is hereby created the Colorado ~~traumatic~~
20 brain injury trust fund board within the state department of human
21 services. The board shall exercise its powers and duties as if transferred
22 by a **type 2** transfer.

23 (2) The board shall be composed of:

24 (b) The president of a state brain injury association OR ALLIANCE
25 or the president's designee, who shall be appointed by the executive
26 director of the state department of human services;

27 (d) No more than ten additional persons with an interest and

1 expertise in the area of ~~traumatic~~ brain injury whom the governor shall
2 appoint with the consent of the senate. The additional board members
3 may include but need not be limited to any combination of the following
4 professions or associations EXPERIENCED with ~~traumatic~~ brain injury:

5 (I) Physicians with experience and strong interest in the provision
6 of care to persons with ~~traumatic~~ brain injuries, including but not limited
7 to neurologists, neuropsychiatrists, physiatrists, or other medical doctors
8 who have direct experience working with persons with ~~traumatic~~ brain
9 injuries;

10 (II) Social workers, nurses, neuropsychologists, or clinical
11 psychologists who have experience working with persons with ~~traumatic~~
12 brain injuries;

13 (III) Rehabilitation specialists, such as speech pathologists,
14 vocational rehabilitation counselors, occupational therapists, or physical
15 therapists, who have experience working with persons with ~~traumatic~~
16 brain injuries;

17 (IV) Clinical research scientists who have experience evaluating
18 persons with ~~traumatic~~ brain injuries;

19 (V) Civilian or military persons with ~~traumatic~~ brain injuries or
20 family members of such persons with ~~traumatic~~ brain injuries;

21 (VI) Persons whose expertise involves work with children with
22 ~~traumatic~~ brain injuries; or

23 (VII) Persons who have experience and specific interest in the
24 needs of and services for persons with ~~traumatic~~ brain injuries.

25 (4) ~~Initial appointments to the board shall be made no later than~~
26 ~~March 1, 2003.~~ The terms of appointed board members shall be three
27 years. ~~except that the terms of the appointed members who are initially~~

1 appointed shall be staggered by the governor to end as follows:

2 (a) ~~Four members on June 30, 2004;~~

3 (b) ~~Three members on June 30, 2005; and~~

4 (c) ~~Three members on June 30, 2006.~~

5 (8) (b) The board may contract with entities to provide all or part
6 of the services described in this part 3 for persons with ~~traumatic~~ brain
7 injuries.

8 (d) The board shall use trust fund ~~moneys~~ MONEY collected
9 pursuant to sections 30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701
10 (4)(e) ~~C.R.S.~~; to provide direct services to persons with ~~traumatic~~ brain
11 injuries, AND support research and ~~support~~ education ~~grants~~ to increase
12 awareness and understanding of issues and needs related to ~~traumatic~~
13 brain injury.

14 (8.5) THE BOARD MAY MONITOR, AND, IF NECESSARY, IMPLEMENT
15 CRITERIA TO ENSURE THAT THERE ARE NO ABUSES IN EXPENDITURES,
16 INCLUDING BUT NOT LIMITED TO REASONABLE AND EQUITABLE PROVIDER'S
17 FEES AND SERVICES.

18 **SECTION 3.** In Colorado Revised Statutes, **repeal** 26-1-303.

19 **SECTION 4.** In Colorado Revised Statutes, 26-1-304, **amend** (1)
20 and (2); **repeal** (3) and (4); and **repeal and reenact, with amendments,**
21 (5) as follows:

22 **26-1-304. Services for persons with brain injuries - limitations**
23 **- covered services.** (1) The board shall determine the percentage of
24 ~~moneys~~ MONEY credited to the trust fund to be spent annually on ~~direct~~
25 ~~services~~ SERVICE COORDINATION AND SKILLS TRAINING for persons with
26 ~~traumatic~~ brain injuries; however, no less than fifty-five percent of the
27 ~~moneys~~ MONEY annually credited to the trust fund pursuant to sections

1 30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(e) ~~€R.S.~~, shall
2 MUST be used to provide ~~direct services~~ SERVICE COORDINATION AND
3 SKILLS TRAINING to persons with ~~traumatic~~ brain injuries.

4 (2) ~~To be eligible for assistance from the trust fund, an individual~~
5 ~~shall have exhausted all other health or rehabilitation benefit funding~~
6 ~~sources that cover the services provided by the trust fund.~~ An individual
7 ~~shall not be~~ IS NOT required to exhaust all private funds in order to be
8 eligible for the program. Individuals who have continuing health
9 insurance benefits, including but not limited to medical assistance
10 pursuant to articles 4, 5, and 6 of title 25.5, ~~€R.S.~~, may access the trust
11 fund for services that are necessary but that are not covered by a health
12 benefit plan, as defined in section 10-16-102 (32), ~~€R.S.~~, or any other
13 funding source.

14 (3) (a) ~~All individuals receiving assistance from the trust fund~~
15 ~~shall receive case management services from the designated entity~~
16 ~~pursuant to section 26-1-303 or the department.~~

17 (b) ~~The case management agency, in coordination with the eligible~~
18 ~~individual, the individual's family or guardian, and the individual's~~
19 ~~physician, shall include in each case plan a process by which the eligible~~
20 ~~individual may receive necessary care, which may include respite care, if~~
21 ~~the eligible individual's service provider is unavailable due to an~~
22 ~~emergency situation or unforeseen circumstances. The eligible individual~~
23 ~~and the individual's family or guardian shall be duly informed by the case~~
24 ~~management agency of these alternative care provisions at the time the~~
25 ~~case plan is initiated.~~

26 (4) ~~The board may monitor, and, if necessary, implement criteria~~
27 ~~to ensure that there are no abuses in expenditures, including, but not~~

1 ~~limited to, reasonable and equitable provider's fees and services.~~

2 (5) ALL INDIVIDUALS RECEIVING ASSISTANCE FROM THE TRUST
3 FUND SHALL RECEIVE SERVICE COORDINATION AND SKILLS TRAINING. IN
4 ADDITION TO SERVICE COORDINATION AND SKILLS TRAINING, THE BOARD
5 SHALL DETERMINE ANY ADDITIONAL SERVICES COVERED BY THE TRUST
6 FUND. THE BOARD MAY PRIORITIZE THE SERVICES COVERED BY THE TRUST
7 FUND AND ELIGIBILITY FOR THE SERVICES. COVERED SERVICES DO NOT
8 INCLUDE INSTITUTIONALIZATION, HOSPITALIZATION, OR MEDICATION.

9 **SECTION 5.** In Colorado Revised Statutes, **amend** 26-1-305 as
10 follows:

11 **26-1-305. Education about brain injury.** The board shall
12 determine the percentage of ~~moneys~~ MONEY credited to the trust fund to
13 ~~be~~ spent annually on education related to ~~traumatic~~ INCREASING THE
14 UNDERSTANDING OF brain injuries; ~~however, no less than five percent of~~
15 ~~the moneys~~ annually credited to the trust fund pursuant to sections
16 ~~30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(c), C.R.S., shall be~~
17 ~~used to provide education related to increasing the understanding of~~
18 ~~traumatic brain injury.~~

19 **SECTION 6.** In Colorado Revised Statutes, 26-1-306, **amend** (1)
20 as follows:

21 **26-1-306. Research related to treatment of brain injuries -**
22 **grants.** (1) The board shall determine the percentage of ~~moneys~~ MONEY
23 credited to the trust fund to be spent annually ~~on~~ TO SUPPORT research
24 related to ~~traumatic~~ THE TREATMENT AND UNDERSTANDING OF brain
25 injuries. ~~however, no less than twenty-five percent of the moneys~~
26 ~~annually credited to the trust fund pursuant to sections 30-15-402 (3),~~
27 ~~42-4-1307 (10)(c), and 42-4-1701 (4)(c), C.R.S., shall be used to support~~

1 ~~research related to the treatment and understanding of traumatic brain~~
2 ~~injuries.~~

3 **SECTION 7.** In Colorado Revised Statutes, **amend** 26-1-307 as
4 follows:

5 **26-1-307. Administrative costs.** The administrative expenses of
6 the board and the state department ~~shall be~~ ARE paid from ~~moneys~~ MONEY
7 in the trust fund. ~~The joint budget committee shall annually appropriate~~
8 ~~moneys from the trust fund to pay for the administrative expenses of the~~
9 ~~program.~~

10 **SECTION 8.** In Colorado Revised Statutes, **repeal** 26-1-308.

11 **SECTION 9.** In Colorado Revised Statutes, 26-1-309, **amend** (1),
12 (2), and (3) as follows:

13 **26-1-309. Trust fund.** (1) There is hereby created in the state
14 treasury the Colorado ~~traumatic~~ brain injury trust fund. The trust fund
15 ~~shall consist~~ CONSISTS of any ~~moneys~~ MONEY collected from surcharges
16 assessed pursuant to sections 30-15-402 (3), 42-4-1307 (10)(c), and
17 42-4-1701 (4)(e); ~~C.R.S.~~ The moneys in the trust fund shall be subject to
18 ~~annual appropriation by the general assembly~~ GIFTS, GRANTS, OR
19 DONATIONS; AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY
20 APPROPRIATE OR TRANSFER TO THE TRUST FUND. SUBJECT TO ANNUAL
21 APPROPRIATION BY THE GENERAL ASSEMBLY, THE BOARD MAY EXPEND
22 MONEY IN THE TRUST FUND for the direct and indirect costs associated
23 with the implementation of this part 3.

24 (2) THE BOARD MAY SEEK, ACCEPT, AND EXPEND gifts, grants, OR
25 donations, ~~or any other moneys that may be made available may be~~
26 ~~accepted by the trust fund or the board~~ FROM PRIVATE OR PUBLIC SOURCES
27 for purposes of ~~the trust fund~~ THIS PART 3. THE BOARD SHALL TRANSMIT

1 ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE
2 STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE TRUST FUND.

3 (3) The trust fund ~~shall be~~ IS a continuing trust fund. All interest
4 earned upon ~~moneys~~ MONEY in the trust fund and deposited or invested
5 may be invested in the types of investments authorized in sections
6 24-36-109, 24-36-112, and 24-36-113. ~~C.R.S.~~ THE STATE TREASURER
7 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT
8 AND INVESTMENT OF MONEY IN THE TRUST FUND TO THE TRUST FUND.

9 **SECTION 10.** In Colorado Revised Statutes, **amend** 26-1-310 as
10 follows:

11 **26-1-310. Reports to the general assembly.** Notwithstanding
12 section 24-1-136 (11)(a)(I), on September 1, 2009, and each September
13 1 thereafter, the board shall provide a report to the joint budget committee
14 and the PUBLIC health CARE and human services ~~committees~~ COMMITTEE
15 of the house of representatives and THE HEALTH AND HUMAN SERVICES
16 COMMITTEE OF the senate, or any successor committees, on the operations
17 of the trust fund, the ~~moneys~~ MONEY expended, the number of individuals
18 with ~~traumatic~~ brain injuries offered services, the research grants awarded
19 and the progress on such grants, and the educational information provided
20 pursuant to this ~~article~~ ARTICLE 1.

21 **SECTION 11.** In Colorado Revised Statutes, 13-80-103.6,
22 **amend** (2)(a)(I) as follows:

23 **13-80-103.6. General limitation of actions - domestic violence**
24 **- six years - definition.** (2) (a) For the purpose of this section, "person
25 under disability" means any person who:

26 (I) Has a behavioral or mental health disorder; an intellectual and
27 developmental disability as defined in section 25.5-10-202 (26); or a

1 traumatic brain injury; as defined in section 26-1-301 (3); and

2 **SECTION 12.** In Colorado Revised Statutes, 24-1-120, **amend**
3 (9) as follows:

4 **24-1-120. Department of human services - creation.** (9) The
5 powers, duties, and functions of the Colorado traumatic brain injury trust
6 fund board, created in section 26-1-302, ~~C.R.S.~~, are transferred by a **type**
7 **2** transfer to the department of human services.

8 **SECTION 13.** In Colorado Revised Statutes, 30-15-402, **amend**
9 (3) as follows:

10 **30-15-402. Violations - penalty - surcharges - victim and**
11 **witness assistance - brain injury trust fund.** (3) In addition to the
12 penalties prescribed in subsection (1) of this section, persons convicted
13 of operating a vehicle in excess of the speed limit in violation of an
14 ordinance adopted pursuant to section 30-15-401 (1)(h) are subject to a
15 surcharge of ~~fifteen~~ TWENTY dollars that shall be paid to the clerk of the
16 court by the defendant. Each clerk shall transmit the ~~moneys~~ MONEY to
17 the state treasurer, who shall credit the same to the Colorado traumatic
18 brain injury trust fund created pursuant to section 26-1-309. ~~C.R.S.~~

19 **SECTION 14.** In Colorado Revised Statutes, 42-4-1307, **amend**
20 (10)(c) as follows:

21 **42-4-1307. Penalties for traffic offenses involving alcohol and**
22 **drugs - legislative declaration - definitions - repeal.** (10) **Additional**
23 **costs and surcharges.** In addition to the penalties prescribed in this
24 section:

25 (c) Persons convicted of DUI, DUI per se, DWAI, and UDD are
26 subject to a surcharge of ~~twenty~~ TWENTY-FIVE dollars to be transmitted
27 to the state treasurer, who shall deposit ~~moneys~~ MONEY collected for the

1 surcharge in the Colorado ~~traumatic~~ brain injury trust fund created
2 pursuant to section 26-1-309; ~~C.R.S.~~;

3 **SECTION 15.** In Colorado Revised Statutes, 42-4-1701, **amend**
4 (4)(e) as follows:

5 **42-4-1701. Traffic offenses and infractions classified -**
6 **penalties - penalty and surcharge schedule - repeal.** (4) (e) (I) An
7 additional ~~fifteen~~ TWENTY dollars shall be assessed for speeding
8 violations ~~under sub-subparagraph (L) of subparagraph (I) of paragraph~~
9 ~~(a) of this subsection (4)~~ PURSUANT TO SUBSECTION (4)(a)(I)(L) OF THIS
10 SECTION in addition to the penalties and surcharge stated in ~~said~~
11 ~~sub-subparagraph (L).~~ ~~Moneys~~ SUBSECTION (4)(a)(I)(L) OF THIS SECTION.
12 MONEY collected pursuant to this ~~paragraph (e) shall~~ SUBSECTION (4)(e)
13 MUST be transmitted to the state treasurer, who shall deposit such ~~moneys~~
14 MONEY in the Colorado ~~traumatic~~ brain injury trust fund created pursuant
15 to section 26-1-309 ~~C.R.S.~~, within fourteen days after the end of each
16 quarter, to be used for the purposes set forth in part 3 of article 1 of title
17 26.

18 (II) If the surcharge is collected by a county, ~~or municipal court,~~
19 the surcharge shall be ~~seventeen~~ TWENTY-TWO dollars of which two
20 dollars shall be retained by the county ~~or municipality~~ and the remaining
21 ~~fifteen~~ TWENTY dollars ~~shall~~ MUST be transmitted to the state treasurer
22 and credited to the Colorado ~~traumatic~~ brain injury trust fund created
23 pursuant to section 26-1-309 ~~C.R.S.~~, within fourteen days after the end of
24 each quarter, to be used for the purposes set forth in part 3 of article 1 of
25 title 26.

26 (III) An additional ~~fifteen~~ TWENTY dollars ~~shall be~~ IS assessed for
27 a violation of a traffic regulation ~~under sub-subparagraph (C) of~~

1 ~~subparagraph (I) of paragraph (a) of this subsection (4)~~ PURSUANT TO
2 SUBSECTION (4)(a)(I)(C) OF THIS SECTION for a violation of section
3 42-4-109 (13)(b), in addition to the penalties stated in ~~said~~
4 ~~sub-subparagraph (C)~~ SUBSECTION (4)(a)(I)(C) OF THIS SECTION. An
5 additional ~~fifteen~~ TWENTY dollars ~~shall~~ MUST be assessed for a
6 motorcycle violation ~~under sub-subparagraph (O) of subparagraph (I) of~~
7 ~~paragraph (a) of this subsection (4)~~ PURSUANT TO SUBSECTION
8 (4)(a)(I)(O) OF THIS SECTION for a violation of section 42-4-1502 (4.5),
9 in addition to the penalties stated in ~~said sub-subparagraph (O)~~. ~~Moneys~~
10 SUBSECTION (4)(a)(I)(O) OF THIS SECTION. MONEY collected pursuant to
11 this ~~subparagraph (H)~~ ~~shall~~ SUBSECTION (4)(e)(III) MUST be transmitted
12 to the state treasurer, who shall deposit the ~~moneys~~ MONEY in the
13 Colorado ~~traumatic~~ brain injury trust fund created pursuant to section
14 26-1-309, ~~C.R.S.~~, to be used for the purposes set forth in part 3 of article
15 1 of title 26.

16 **SECTION 16. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2020 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.