

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

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,**
102 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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;

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.

SENATE
2nd Reading Unamended
April 23, 2019

HOUSE
3rd Reading Unamended
March 29, 2019

HOUSE
Amended 2nd Reading
March 28, 2019

- ! Defining "brain injury" and removing the definition of "traumatic brain injury";
- ! 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, INCLUDING A TRAUMATIC INJURY,
 10 THAT OCCURS POST-BIRTH AND IS NONCONGENITAL, NONDEGENERATIVE,
 11 AND NONHEREDITARY, RESULTING IN PARTIAL OR TOTAL FUNCTIONAL
 12 IMPAIRMENT IN ONE OR MORE AREAS, INCLUDING BUT NOT LIMITED TO
 13 ATTENTION, MEMORY, REASONING, PROBLEM SOLVING, SPEED OF
 14 PROCESSING, DECISION-MAKING, LEARNING, PERCEPTION, SENSORY
 15 IMPAIRMENT, SPEECH AND LANGUAGE, MOTOR AND PHYSICAL

1 FUNCTIONING, OR PSYCHOSOCIAL BEHAVIOR.

2 (b) DOCUMENTATION OF BRAIN INJURY MUST BE BASED ON
3 ADEQUATE MEDICAL HISTORY. A BRAIN INJURY MUST BE OF SUFFICIENT
4 SEVERITY TO PRODUCE PARTIAL OR TOTAL DISABILITY.

5 (2) "Program" means the services provided pursuant to sections
6 ~~26-1-303 and 26-1-304~~ THIS PART 3.

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

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

18 **SECTION 2.** In Colorado Revised Statutes, 26-1-302, **amend** (1),
19 (2)(b), (2)(c), (2)(d), (4), (8)(b), and (8)(d); and **add** (8.5) and (2)(c.5) as
20 follows:

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

26 (2) The board shall be composed of:

27 (b) The president of a state brain injury association OR ALLIANCE

1 or the president's designee, who shall be appointed by the executive
2 director of the state department of human services;

3 (c) The executive director of the department of public health and
4 environment or the executive director's designee; and

5 (c.5) AT LEAST TWO PERSONS WHO HAVE EXPERIENCED A BRAIN
6 INJURY AND AT LEAST ONE FAMILY MEMBER OF A PERSON WITH A BRAIN
7 INJURY, WHICH MEMBERS THE GOVERNOR SHALL APPOINT WITH THE
8 CONSENT OF THE SENATE; AND

9 (d) No more than ~~ten~~ SEVEN additional persons with an interest
10 and expertise in the area of traumatic brain injury whom the governor
11 shall appoint with the consent of the senate. AT A MINIMUM, OF THE
12 ADDITIONAL SEVEN BOARD MEMBERS, AT LEAST TWO MEMBERS MUST
13 HAVE SPECIFIC PERSONAL OR PROFESSIONAL EXPERIENCE WITH TRAUMATIC
14 BRAIN INJURY. The additional board members may include but need not be
15 limited to any combination of the following professions or associations
16 EXPERIENCED with traumatic brain injury:

17 (I) Physicians with experience and strong interest in the provision
18 of care to persons with traumatic brain injuries, including but not limited
19 to neurologists, neuropsychiatrists, physiatrists, or other medical doctors
20 who have direct experience working with persons with traumatic brain
21 injuries;

22 (II) Social workers, nurses, neuropsychologists, or clinical
23 psychologists who have experience working with persons with traumatic
24 brain injuries;

25 (III) Rehabilitation specialists, such as speech pathologists,
26 vocational rehabilitation counselors, occupational therapists, or physical
27 therapists, who have experience working with persons with traumatic

1 brain injuries;

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

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

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

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

10 (4) ~~Initial appointments to the board shall be made no later than~~
11 ~~March 1, 2003.~~ The terms of appointed board members shall be three
12 years. ~~except that the terms of the appointed members who are initially~~
13 ~~appointed shall be staggered by the governor to end as follows:~~

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

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

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

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

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

26 (8.5) THE BOARD MAY MONITOR, AND, IF NECESSARY, IMPLEMENT
27 CRITERIA TO ENSURE THAT THERE ARE NO ABUSES IN EXPENDITURES,

1 INCLUDING BUT NOT LIMITED TO REASONABLE AND EQUITABLE PROVIDER'S
2 FEES AND SERVICES.

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

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

7 **26-1-304. Services for persons with brain injuries - limitations**
8 **- covered services.** (1) The board shall determine the percentage of
9 ~~moneys~~ MONEY credited to the trust fund to be spent annually on ~~direct~~
10 ~~services~~ SERVICE COORDINATION AND SKILLS TRAINING for persons with
11 ~~traumatic~~ brain injuries; however, no less than fifty-five percent of the
12 ~~moneys~~ MONEY annually credited to the trust fund pursuant to sections
13 30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(e) ~~C.R.S.~~, shall
14 MUST be used to provide ~~direct services~~ SERVICE COORDINATION AND
15 SKILLS TRAINING to persons with ~~traumatic~~ brain injuries.

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

26 (3) (a) ~~All individuals receiving assistance from the trust fund~~
27 ~~shall receive case management services from the designated entity~~

1 pursuant to section ~~26-1-303~~ or the department.

2 (b) ~~The case management agency, in coordination with the eligible~~
3 ~~individual, the individual's family or guardian, and the individual's~~
4 ~~physician, shall include in each case plan a process by which the eligible~~
5 ~~individual may receive necessary care, which may include respite care, if~~
6 ~~the eligible individual's service provider is unavailable due to an~~
7 ~~emergency situation or unforeseen circumstances. The eligible individual~~
8 ~~and the individual's family or guardian shall be duly informed by the case~~
9 ~~management agency of these alternative care provisions at the time the~~
10 ~~case plan is initiated.~~

11 (4) ~~The board may monitor, and, if necessary, implement criteria~~
12 ~~to ensure that there are no abuses in expenditures, including, but not~~
13 ~~limited to, reasonable and equitable provider's fees and services.~~

14 (5) ALL INDIVIDUALS RECEIVING ASSISTANCE FROM THE TRUST
15 FUND SHALL RECEIVE SERVICE COORDINATION AND SKILLS TRAINING. IN
16 ADDITION TO SERVICE COORDINATION AND SKILLS TRAINING, THE BOARD
17 SHALL DETERMINE ANY ADDITIONAL SERVICES COVERED BY THE TRUST
18 FUND. THE BOARD MAY PRIORITIZE THE SERVICES COVERED BY THE TRUST
19 FUND AND ELIGIBILITY FOR THE SERVICES WHILE ENSURING FIDELITY TO
20 THE PROGRAM'S ORIGINAL INTENT TO SERVE INDIVIDUALS WITH
21 TRAUMATIC BRAIN INJURIES. COVERED SERVICES DO NOT INCLUDE
22 INSTITUTIONALIZATION, HOSPITALIZATION, OR MEDICATION.

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

25 **26-1-305. Education about brain injury.** The board shall
26 determine the percentage of ~~moneys~~ MONEY credited to the trust fund ~~to~~
27 ~~be~~ spent annually on education related to ~~traumatic~~ INCREASING THE

1 UNDERSTANDING OF brain injuries; however, no less than five percent of
2 the moneys annually credited to the trust fund pursuant to sections
3 30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(c), C.R.S., shall be
4 used to provide education related to increasing the understanding of
5 traumatic brain injury.

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

8 **26-1-306. Research related to treatment of brain injuries -**
9 **grants.** (1) The board shall determine the percentage of moneys MONEY
10 credited to the trust fund to be spent annually on TO SUPPORT research
11 related to traumatic THE TREATMENT AND UNDERSTANDING OF brain
12 injuries. however, no less than twenty-five percent of the moneys
13 annually credited to the trust fund pursuant to sections 30-15-402 (3),
14 42-4-1307 (10)(c), and 42-4-1701 (4)(c), C.R.S., shall be used to support
15 research related to the treatment and understanding of traumatic brain
16 injuries THE BOARD SHALL PRIORITIZE RESEARCH RELATED TO TRAUMATIC
17 BRAIN INJURIES.

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

20 **26-1-307. Administrative costs.** The administrative expenses of
21 the board and the state department shall be ARE paid from moneys MONEY
22 in the trust fund. The joint budget committee shall annually appropriate
23 moneys from the trust fund to pay for the administrative expenses of the
24 program.

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

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

1 **26-1-309. Trust fund.** (1) There is hereby created in the state
2 treasury the Colorado ~~traumatic~~ brain injury trust fund. The trust fund
3 ~~shall consist~~ CONSISTS of any ~~moneys~~ MONEY collected from surcharges
4 assessed pursuant to sections 30-15-402 (3), 42-4-1307 (10)(c), and
5 42-4-1701 (4)(e); ~~C.R.S.~~ The moneys in the trust fund shall be subject to
6 ~~annual appropriation by the general assembly~~ GIFTS, GRANTS, OR
7 DONATIONS; AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY
8 APPROPRIATE OR TRANSFER TO THE TRUST FUND. SUBJECT TO ANNUAL
9 APPROPRIATION BY THE GENERAL ASSEMBLY, THE BOARD MAY EXPEND
10 MONEY IN THE TRUST FUND for the direct and indirect costs associated
11 with the implementation of this part 3.

12 (2) THE BOARD MAY SEEK, ACCEPT, AND EXPEND gifts, grants, OR
13 donations, ~~or any other moneys that may be made available may be~~
14 ~~accepted by the trust fund or the board~~ FROM PRIVATE OR PUBLIC SOURCES
15 for purposes of ~~the trust fund~~ THIS PART 3. THE BOARD SHALL TRANSMIT
16 ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE
17 STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE TRUST FUND.

18 (3) The trust fund ~~shall be~~ IS a continuing trust fund. All interest
19 earned upon ~~moneys~~ MONEY in the trust fund and deposited or invested
20 may be invested in the types of investments authorized in sections
21 24-36-109, 24-36-112, and 24-36-113. ~~C.R.S.~~ THE STATE TREASURER
22 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT
23 AND INVESTMENT OF MONEY IN THE TRUST FUND TO THE TRUST FUND.

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

26 **26-1-310. Reports to the general assembly.** Notwithstanding
27 section 24-1-136 (11)(a)(I), on September 1, 2009, and each September

1 1 thereafter, the board shall provide a report to the joint budget committee
2 and the PUBLIC health CARE and human services ~~committees~~ COMMITTEE
3 of the house of representatives and THE HEALTH AND HUMAN SERVICES
4 COMMITTEE OF the senate, or any successor committees, on the operations
5 of the trust fund, the ~~moneys~~ MONEY expended, the number of individuals
6 with ~~traumatic~~ brain injuries offered services, the research grants awarded
7 and the progress on such grants, and the educational information provided
8 pursuant to this ~~article~~ ARTICLE 1.

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

11 **13-80-103.6. General limitation of actions - domestic violence**
12 **- six years - definition.** (2) (a) For the purpose of this section, "person
13 under disability" means any person who:

14 (I) Has a behavioral or mental health disorder; an intellectual and
15 developmental disability as defined in section 25.5-10-202 (26); or a
16 ~~traumatic brain injury as defined in section 26-1-301 (3)~~ SECTION
17 ~~26-1-301 (1.5)~~; and

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

20 **24-1-120. Department of human services - creation.** (9) The
21 powers, duties, and functions of the Colorado ~~traumatic~~ brain injury trust
22 fund board, created in section 26-1-302, ~~C.R.S.~~, are transferred by a **type**
23 **2** transfer to the department of human services.

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

26 **30-15-402. Violations - penalty - surcharges - victim and**
27 **witness assistance - brain injury trust fund.** (3) In addition to the

1 penalties prescribed in subsection (1) of this section, persons convicted
2 of operating a vehicle in excess of the speed limit in violation of an
3 ordinance adopted pursuant to section 30-15-401 (1)(h) are subject to a
4 surcharge of ~~fifteen~~ TWENTY dollars that shall be paid to the clerk of the
5 court by the defendant. Each clerk shall transmit the ~~moneys~~ MONEY to
6 the state treasurer, who shall credit the same to the Colorado ~~traumatic~~
7 brain injury trust fund created pursuant to section 26-1-309. ~~C.R.S.~~

8 **SECTION 14.** In Colorado Revised Statutes, 42-4-110, **amend**
9 (2) as follows:

10 **42-4-110. Provisions uniform throughout state.** (2) The
11 municipal courts have jurisdiction over violations of traffic regulations
12 enacted or adopted by municipalities. However, the provisions of sections
13 42-4-1701, 42-4-1705, and 42-4-1707 shall not be applicable to
14 municipalities. ~~except for the provisions of section 42-4-1701 (4)(c)(H).~~

15 **SECTION 15.** In Colorado Revised Statutes, 42-4-1307, **amend**
16 (10)(c) as follows:

17 **42-4-1307. Penalties for traffic offenses involving alcohol and**
18 **drugs - legislative declaration - definitions - repeal.** (10) **Additional**
19 **costs and surcharges.** In addition to the penalties prescribed in this
20 section:

21 (c) Persons convicted of DUI, DUI per se, DWAI, and UDD are
22 subject to a surcharge of ~~twenty~~ TWENTY-FIVE dollars to be transmitted
23 to the state treasurer, who shall deposit ~~moneys~~ MONEY collected for the
24 surcharge in the Colorado ~~traumatic~~ brain injury trust fund created
25 pursuant to section 26-1-309; ~~C.R.S.~~;

26 **SECTION 16.** In Colorado Revised Statutes, 42-4-1701, **amend**
27 (4)(e) as follows:

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

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

22 (III) An additional ~~fifteen~~ TWENTY dollars ~~shall be~~ IS assessed for
23 a violation of a traffic regulation ~~under sub-subparagraph (C) of~~
24 ~~subparagraph (I) of paragraph (a) of this subsection (4)~~ PURSUANT TO
25 SUBSECTION (4)(a)(I)(C) OF THIS SECTION for a violation of section
26 42-4-109 (13)(b), in addition to the penalties stated in ~~said~~
27 ~~sub-subparagraph (C)~~ SUBSECTION (4)(a)(I)(C) OF THIS SECTION. An

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

12 **SECTION 17. Appropriation.** (1) For the 2019-20 state fiscal
13 year, \$450,000 is appropriated to the Colorado brain injury trust fund
14 created in section 26-1-309 (1), C.R.S. This appropriation is from the
15 general fund. The department of human services is responsible for the
16 accounting related to this appropriation.

17 (2) For the 2019-20 state fiscal year, \$450,000 is appropriated to
18 the department of human services. This appropriation is from
19 reappropriated funds in the Colorado brain injury trust fund under
20 subsection (1) of this section. To implement this act, the department may
21 use the appropriation for the Colorado brain injury program.

22 **SECTION 18. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2020 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.