

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

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.

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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  
16 FUNCTIONING, OR PSYCHOSOCIAL BEHAVIOR.

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

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

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

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

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

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

24 (2) The board shall be composed of:

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

1 (d) No more than ten additional persons with an interest and  
2 expertise in the area of traumatic brain injury whom the governor shall  
3 appoint with the consent of the senate. The additional board members  
4 may include but need not be limited to any combination of the following  
5 professions or associations EXPERIENCED with traumatic brain injury:

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

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

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

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

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

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

24 (VII) Persons who have experience and specific interest in the  
25 needs of and services for persons with traumatic brain injuries,  
26 INCLUDING TWO PERSONS WITH A BRAIN INJURY AND THE FAMILY MEMBER  
27 OF A PERSON WITH A BRAIN INJURY.

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

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

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

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

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

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

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

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

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

25           **26-1-304. Services for persons with brain injuries - limitations**  
26 **- covered services.** (1) The board shall determine the percentage of  
27 ~~moneys~~ MONEY credited to the trust fund to be spent annually on ~~direct~~

1 ~~services~~ SERVICE COORDINATION AND SKILLS TRAINING for persons with  
2 ~~traumatic~~ brain injuries; however, no less than fifty-five percent of the  
3 ~~moneys~~ MONEY annually credited to the trust fund pursuant to sections  
4 30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(e) ~~€R.S.~~, shall  
5 MUST be used to provide ~~direct services~~ SERVICE COORDINATION AND  
6 SKILLS TRAINING to persons with ~~traumatic~~ brain injuries.

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

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

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

1 case plan is initiated.

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

5 (5) ALL INDIVIDUALS RECEIVING ASSISTANCE FROM THE TRUST  
6 FUND SHALL RECEIVE SERVICE COORDINATION AND SKILLS TRAINING. IN  
7 ADDITION TO SERVICE COORDINATION AND SKILLS TRAINING, THE BOARD  
8 SHALL DETERMINE ANY ADDITIONAL SERVICES COVERED BY THE TRUST  
9 FUND. THE BOARD MAY PRIORITIZE THE SERVICES COVERED BY THE TRUST  
10 FUND AND ELIGIBILITY FOR THE SERVICES WHILE ENSURING FIDELITY TO  
11 THE PROGRAM'S ORIGINAL INTENT TO SERVE INDIVIDUALS WITH  
12 TRAUMATIC BRAIN INJURIES. COVERED SERVICES DO NOT INCLUDE  
13 INSTITUTIONALIZATION, HOSPITALIZATION, OR MEDICATION.

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

16 **26-1-305. Education about brain injury.** The board shall  
17 determine the percentage of ~~moneys~~ MONEY credited to the trust fund to  
18 ~~be~~ spent annually on education related to ~~traumatic~~ INCREASING THE  
19 UNDERSTANDING OF brain injuries; ~~however, no less than five percent of~~  
20 ~~the moneys annually credited to the trust fund pursuant to sections~~  
21 ~~30-15-402 (3), 42-4-1307 (10)(c), and 42-4-1701 (4)(c), C.R.S., shall be~~  
22 ~~used to provide education related to increasing the understanding of~~  
23 ~~traumatic brain injury.~~

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

26 **26-1-306. Research related to treatment of brain injuries -**  
27 **grants.** (1) The board shall determine the percentage of ~~moneys~~ MONEY

1 credited to the trust fund to be spent annually ~~on~~ TO SUPPORT research  
2 related to ~~traumatic~~ THE TREATMENT AND UNDERSTANDING OF brain  
3 injuries. ~~however, no less than twenty-five percent of the moneys~~  
4 ~~annually credited to the trust fund pursuant to sections 30-15-402 (3),~~  
5 ~~42-4-1307 (10)(c), and 42-4-1701 (4)(e), C.R.S., shall be used to support~~  
6 ~~research related to the treatment and understanding of traumatic brain~~  
7 ~~injuries.~~

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

10 **26-1-307. Administrative costs.** The administrative expenses of  
11 the board and the state department ~~shall be~~ ARE paid from ~~moneys~~ MONEY  
12 in the trust fund. ~~The joint budget committee shall annually appropriate~~  
13 ~~moneys from the trust fund to pay for the administrative expenses of the~~  
14 ~~program.~~

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

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

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



1 with the implementation of this part 3.

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

8 (3) The trust fund ~~shall be~~ IS a continuing trust fund. All interest  
9 earned upon ~~moneys~~ MONEY in the trust fund and deposited or invested  
10 may be invested in the types of investments authorized in sections  
11 24-36-109, 24-36-112, and 24-36-113. ~~C.R.S.~~ THE STATE TREASURER  
12 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT  
13 AND INVESTMENT OF MONEY IN THE TRUST FUND TO THE TRUST FUND.

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

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

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

1           **13-80-103.6. General limitation of actions - domestic violence**  
2 **- six years - definition.** (2) (a) For the purpose of this section, "person  
3 under disability" means any person who:

4           (I) Has a behavioral or mental health disorder; an intellectual and  
5 developmental disability as defined in section 25.5-10-202 (26); or a  
6 **traumatic brain injury as defined in section 26-1-301 (3)** SECTION  
7 **26-1-301 (1.5); and**

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

10           **24-1-120. Department of human services - creation.** (9) The  
11 powers, duties, and functions of the Colorado **traumatic** brain injury trust  
12 fund board, created in section 26-1-302, ~~C.R.S.~~, are transferred by a **type**  
13 **2** transfer to the department of human services.

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

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

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

27           **42-4-110. Provisions uniform throughout state.** (2) The

1 municipal courts have jurisdiction over violations of traffic regulations  
2 enacted or adopted by municipalities. However, the provisions of sections  
3 42-4-1701, 42-4-1705, and 42-4-1707 shall not be applicable to  
4 municipalities. ~~except for the provisions of section 42-4-1701 (4)(e)(H).~~

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

7 **42-4-1307. Penalties for traffic offenses involving alcohol and**  
8 **drugs - legislative declaration - definitions - repeal. (10) Additional**  
9 **costs and surcharges.** In addition to the penalties prescribed in this  
10 section:

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

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

18 **42-4-1701. Traffic offenses and infractions classified -**  
19 **penalties - penalty and surcharge schedule - repeal. (4) (e) (I) An**  
20 additional ~~fifteen~~ TWENTY dollars shall be assessed for speeding  
21 violations ~~under sub-subparagraph (L) of subparagraph (I) of paragraph~~  
22 ~~(a) of this subsection (4)~~ PURSUANT TO SUBSECTION (4)(a)(I)(L) OF THIS  
23 SECTION in addition to the penalties and surcharge stated in ~~said~~  
24 ~~sub-subparagraph (L).~~ ~~Moneys~~ SUBSECTION (4)(a)(I)(L) OF THIS SECTION.  
25 MONEY collected pursuant to this ~~paragraph (c)~~ shall SUBSECTION (4)(e)  
26 MUST be transmitted to the state treasurer, who shall deposit such ~~moneys~~  
27 MONEY in the Colorado ~~traumatic~~ brain injury trust fund created pursuant

1 to section 26-1-309 ~~C.R.S.~~, within fourteen days after the end of each  
2 quarter, to be used for the purposes set forth in part 3 of article 1 of title  
3 26.

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

12 (III) An additional ~~fifteen~~ TWENTY dollars ~~shall be~~ IS assessed for  
13 a violation of a traffic regulation ~~under sub-subparagraph (C) of~~  
14 ~~subparagraph (I) of paragraph (a) of this subsection (4)~~ PURSUANT TO  
15 SUBSECTION (4)(a)(I)(C) OF THIS SECTION for a violation of section  
16 42-4-109 (13)(b), in addition to the penalties stated in ~~said~~  
17 ~~sub-subparagraph (C)~~ SUBSECTION (4)(a)(I)(C) OF THIS SECTION. An  
18 additional ~~fifteen~~ TWENTY dollars ~~shall~~ MUST be assessed for a  
19 motorcycle violation ~~under sub-subparagraph (O) of subparagraph (I) of~~  
20 ~~paragraph (a) of this subsection (4)~~ PURSUANT TO SUBSECTION  
21 (4)(a)(I)(O) OF THIS SECTION for a violation of section 42-4-1502 (4.5),  
22 in addition to the penalties stated in ~~said sub-subparagraph (O)~~. ~~Moneys~~  
23 SUBSECTION (4)(a)(I)(O) OF THIS SECTION. MONEY collected pursuant to  
24 this ~~subparagraph (H)~~ ~~shall~~ SUBSECTION (4)(e)(III) MUST be transmitted  
25 to the state treasurer, who shall deposit the ~~moneys~~ MONEY in the  
26 Colorado ~~traumatic~~ brain injury trust fund created pursuant to section  
27 26-1-309, ~~C.R.S.~~, to be used for the purposes set forth in part 3 of article

1 1 of title 26.

2           **SECTION 17. Act subject to petition - effective date.** This act  
3 takes effect at 12:01 a.m. on the day following the expiration of the  
4 ninety-day period after final adjournment of the general assembly (August  
5 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
6 referendum petition is filed pursuant to section 1 (3) of article V of the  
7 state constitution against this act or an item, section, or part of this act  
8 within such period, then the act, item, section, or part will not take effect  
9 unless approved by the people at the general election to be held in  
10 November 2020 and, in such case, will take effect on the date of the  
11 official declaration of the vote thereon by the governor.