

CHAPTER 135

HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 09-005

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also REPRESENTATIVE(S) Primavera, Curry, Ferrandino, Fischer, Frangas, Gerou, Green, Kefalas, Kerr J., Labuda, Looper, Marostica, Peniston, Pommer, Rice, Roberts, Ryden, Schafer S., Solano, Stephens, Summers, Todd, Vigil.

AN ACT**CONCERNING THE COLORADO TRAUMATIC BRAIN INJURY PROGRAM.**

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

SECTION 1. The introductory portion to 26-1-301 and 26-1-301 (1) and (3), Colorado Revised Statutes, are amended to read:

26-1-301. Definitions. As used in ~~sections 26-1-301 to 26-1-310~~ THIS PART 3, unless the context otherwise requires:

(1) "Board" means the Colorado traumatic brain injury TRUSTFUND board created pursuant to section 26-1-302.

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

SECTION 2. 26-1-302 (1), (2), and (8), Colorado Revised Statutes, are amended to read:

26-1-302. Colorado traumatic brain injury trust fund board - creation - powers and duties. (1) There is hereby created the Colorado traumatic brain

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

injury TRUST FUND board within the STATE department of human services. The board shall exercise its powers and duties as if transferred by a **type 2** transfer.

(2) ~~The Colorado traumatic brain injury board shall be composed of: thirteen members including:~~

(a) The executive director of the STATE department OF HUMAN SERVICES or the executive director's designee;

(b) The president of a state brain injury association or the president's designee, WHO SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT OF HUMAN SERVICES;

(c) The executive director of the department of public health and environment or the executive director's designee; ~~and the following members who shall be appointed by the governor, with the consent of the senate:~~

~~(a) A neurologist who has experience working with persons with traumatic brain injuries;~~

~~(b) A neuropsychologist who has experience working with persons with traumatic brain injuries;~~

~~(c) A social worker or clinical psychologist experienced in working with persons who have sustained traumatic brain injuries;~~

~~(d) A rehabilitation specialist such as a speech pathologist, vocational rehabilitation counselor, occupational therapist, or physical therapist who has experience working with persons with traumatic brain injuries;~~

~~(e) A neurosurgeon or neuropsychiatrist who has experience working with persons with traumatic brain injuries;~~

~~(f) A clinical research scientist who has experience evaluating persons with traumatic brain injuries;~~

~~(g) Two persons who are family members of individuals with traumatic brain injuries or individuals with a traumatic brain injury; and~~

~~(h) Two members of the public who have experience with persons with traumatic brain injuries.~~

(d) NO MORE THAN TEN ADDITIONAL PERSONS WITH AN INTEREST AND EXPERTISE IN THE AREA OF TRAUMATIC BRAIN INJURY WHO THE GOVERNOR SHALL APPOINT, WITH THE CONSENT OF THE SENATE. THE ADDITIONAL BOARD MEMBERS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, ANY COMBINATION OF THE FOLLOWING PROFESSIONS OR ASSOCIATION WITH TRAUMATIC BRAIN INJURY:

(I) PHYSICIANS WITH EXPERIENCE AND STRONG INTEREST IN THE PROVISION OF CARE TO PERSONS WITH TRAUMATIC BRAIN INJURIES, INCLUDING BUT NOT LIMITED TO NEUROLOGISTS, NEUROPSYCHIATRISTS, PHYSIATRISTS, OR OTHER MEDICAL

DOCTORS WHO HAVE DIRECT EXPERIENCE WORKING WITH PERSONS WITH TRAUMATIC BRAIN INJURIES;

(II) SOCIAL WORKERS, NURSES, NEUROPSYCHOLOGISTS, OR CLINICAL PSYCHOLOGISTS WHO HAVE EXPERIENCE WORKING WITH PERSONS WITH TRAUMATIC BRAIN INJURIES;

(III) REHABILITATION SPECIALISTS, SUCH AS SPEECH PATHOLOGISTS, VOCATIONAL REHABILITATION COUNSELORS, OCCUPATIONAL THERAPISTS, OR PHYSICAL THERAPISTS, WHO HAVE EXPERIENCE WORKING WITH PERSONS WITH TRAUMATIC BRAIN INJURIES;

(IV) CLINICAL RESEARCH SCIENTISTS WHO HAVE EXPERIENCE EVALUATING PERSONS WITH TRAUMATIC BRAIN INJURIES;

(V) CIVILIAN OR MILITARY PERSONS WITH TRAUMATIC BRAIN INJURIES OR FAMILY MEMBERS OF SUCH PERSONS WITH TRAUMATIC BRAIN INJURIES;

(VI) PERSONS WHOSE EXPERTISE INVOLVES WORK WITH CHILDREN WITH TRAUMATIC BRAIN INJURIES; OR

(VII) PERSONS WHO HAVE EXPERIENCE AND SPECIFIC INTEREST IN THE NEEDS OF AND SERVICES FOR PERSONS WITH TRAUMATIC BRAIN INJURIES.

(8)(a) The board shall promulgate reasonable policies and procedures pertaining to the operation of the trust fund.

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

(c) The board may accept and expend gifts, grants, and donations for operation of the program.

(d) THE BOARD SHALL USE TRUST FUND MONEYS COLLECTED PURSUANT TO SECTIONS 30-15-402 (3), 42-4-1301 (7) (d) (III), AND 42-4-1701 (4) (e), C.R.S., TO PROVIDE DIRECT SERVICES TO PERSONS WITH TRAUMATIC BRAIN INJURIES, SUPPORT RESEARCH, AND SUPPORT EDUCATION GRANTS TO INCREASE AWARENESS AND UNDERSTANDING OF ISSUES AND NEEDS RELATED TO TRAUMATIC BRAIN INJURY.

SECTION 3. 26-1-304 (1), Colorado Revised Statutes, is amended to read:

26-1-304. Services for persons with traumatic brain injuries - limitations - covered services. (1) ~~Approximately sixty-five percent of the moneys collected for the trust fund pursuant to sections 42-4-1301 (7) (d) (III) and 42-4-1701 (4) (e), C.R.S., shall be used to provide services to persons with traumatic brain injuries. Services provided pursuant to this section shall begin to be provided to persons with traumatic brain injuries no later than July 1, 2004.~~ THE BOARD SHALL DETERMINE THE PERCENTAGE OF MONEYS CREDITED TO THE TRUST FUND TO BE SPENT ANNUALLY ON DIRECT SERVICES FOR PERSONS WITH TRAUMATIC BRAIN INJURIES; HOWEVER, NO LESS THAN FIFTY-FIVE PERCENT OF THE MONEYS ANNUALLY CREDITED TO THE TRUST FUND PURSUANT TO SECTIONS 30-15-402 (3), 42-4-1301 (7) (d) (III), AND 42-4-1701

(4) (e), C.R.S., SHALL BE USED TO PROVIDE DIRECT SERVICES TO PERSONS WITH TRAUMATIC BRAIN INJURIES.

SECTION 4. 26-1-305, Colorado Revised Statutes, is amended to read:

26-1-305. Education about traumatic brain injury. ~~Approximately five percent of the moneys collected for the trust fund pursuant to sections 42-4-1301 (7) (d) (III) and 42-4-1701 (4) (e), C.R.S., shall be utilized to provide education for individuals with traumatic brain injuries and assist educators, parents, and nonmedical professionals in the identification of traumatic brain injuries so as to assist such persons in seeking proper medical intervention or treatment. Implementation of this section shall begin no later than April 1, 2004.~~ THE BOARD SHALL DETERMINE THE PERCENTAGE OF MONEYS CREDITED TO THE TRUST FUND TO BE SPENT ANNUALLY ON EDUCATION RELATED TO TRAUMATIC BRAIN INJURIES; HOWEVER, NO LESS THAN FIVE PERCENT OF THE MONEYS THE TRUST FUND PURSUANT TO SECTIONS 30-15-402 (3), 42-4-1301 (7) (d) (III), AND 42-4-1701 (4) (e), C.R.S., SHALL BE USED TO PROVIDE EDUCATION RELATED TO INCREASING THE UNDERSTANDING OF TRAUMATIC BRAIN INJURY.

SECTION 5. 26-1-306 (1), Colorado Revised Statutes, is amended to read:

26-1-306. Research related to treatment of traumatic brain injuries - grants. (1) ~~Approximately thirty percent of the moneys collected for the trust fund pursuant to sections 42-4-1301 (7) (d) (III) and 42-4-1701 (4) (e), C.R.S., shall be utilized to support research related to the treatment and understanding of traumatic brain injuries. The board shall solicit applications for grants to be awarded pursuant to this section no later than October 1, 2004.~~ THE BOARD SHALL DETERMINE THE PERCENTAGE OF MONEYS CREDITED TO THE TRUST FUND TO BE SPENT ANNUALLY ON RESEARCH RELATED TO TRAUMATIC BRAIN INJURIES; HOWEVER, NO LESS THAN TWENTY-FIVE PERCENT OF THE MONEYS ANNUALLY CREDITED THE TRUST FUND PURSUANT TO SECTIONS 30-15-402 (3), 42-4-1301 (7) (d) (III), AND 42-4-1701 (4) (e), C.R.S., SHALL BE USED TO SUPPORT RESEARCH RELATED TO THE TREATMENT AND UNDERSTANDING OF TRAUMATIC BRAIN INJURIES.

SECTION 6. 26-1-307, Colorado Revised Statutes, is amended to read:

26-1-307. Administrative costs. The administrative expenses of the board and the STATE department shall be paid from moneys in the trust fund. The joint budget committee shall annually appropriate moneys from the TRUST fund to pay for the administrative expenses of the program.

SECTION 7. 26-1-309 (1), Colorado Revised Statutes, is amended, and the said 26-1-309 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

26-1-309. Trust fund. (1) ~~A trust fund to be known as the Colorado traumatic brain injury trust fund is hereby created and established in the state treasury. Such~~ THERE IS HEREBY CREATED IN THE STATE TREASURY THE COLORADO TRAUMATIC BRAIN INJURY TRUST FUND. THE trust fund shall ~~be comprised~~ CONSIST OF ANY moneys collected from surcharges assessed pursuant to sections 30-15-402 (3), 42-4-1301 (7) (d) (III), and 42-4-1701 (4) (e), C.R.S. THE MONEYS IN THE FUND

SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS PART 3.

(4) THE TRUST FUND REVENUE AND ITS RESERVES SHALL BE USED SOLELY FOR THE PURPOSES AND IN THE MANNER DESCRIBED IN SECTIONS 26-1-304 TO 26-1-307.

(5) ALL UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND SHALL REMAIN IN THE TRUST FUND.

SECTION 8. 26-1-310, Colorado Revised Statutes, is amended to read:

26-1-310. Reports to the general assembly. On ~~February 1, 2004,~~ SEPTEMBER 1, 2009, and each ~~February 1~~ SEPTEMBER 1 thereafter, the board of ~~directors~~ shall PROVIDE A report to the joint budget committee and the health and human services committees of the house of representatives and the senate, or any successor committees, on the operations of the trust fund, the moneys expended, the number of individuals with traumatic brain injuries offered services, the research grants awarded and the progress on such grants, and the educational information provided pursuant to this article.

SECTION 9. Repeal. 26-1-311, Colorado Revised Statutes, is repealed as follows:

26-1-311. Repeal. Sections ~~26-1-301 to 26-1-311~~ are repealed, effective July 1, ~~2012~~.

SECTION 10. 24-1-120 (9), Colorado Revised Statutes, is amended to read:

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

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 20, 2009