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An Act

HOUSE BILL 19-1147

BY REPRESENTATIVE(S) Snyder, Esgar, Caraveo, Exum, Michaelson Jenet, Mullica, Arndt, Bird, Buckner, Buentello, Duran, Herod, Hooton, Kipp, McCluskie, McLachlan, Titone, Valdez A., Becker; also SENATOR(S) Lee and Crowder, Ginal, Gonzales, Priola, Tate, Winter.

CONCERNING REVISIONS TO THE TRAUMATIC BRAIN INJURY PROGRAM, AND,
IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

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

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

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

(1.5) (a) "BRAIN INJURY" REFERS TO DAMAGE TO THE BRAIN FROM AN INTERNAL OR EXTERNAL SOURCE, INCLUDING A TRAUMATIC INJURY, THAT

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

OCCURS POST-BIRTH AND IS NONCONGENITAL, NONDEGENERATIVE, AND NONHEREDITARY, RESULTING IN PARTIAL OR TOTAL FUNCTIONAL IMPAIRMENT IN ONE OR MORE AREAS, INCLUDING BUT NOT LIMITED TO ATTENTION, MEMORY, REASONING, PROBLEM SOLVING, SPEED OF PROCESSING, DECISION-MAKING, LEARNING, PERCEPTION, SENSORY IMPAIRMENT, SPEECH AND LANGUAGE, MOTOR AND PHYSICAL FUNCTIONING, OR PSYCHOSOCIAL BEHAVIOR.

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

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

~~(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.~~

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

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

26-1-302. Colorado brain injury trust fund board - creation - powers and duties. (1) There is hereby created the Colorado ~~traumatic brain 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 board shall be composed of:

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

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

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

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

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

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

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

(8) (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.

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

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

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

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

26-1-304. Services for persons with brain injuries - limitations - covered services. (1) The board shall determine the percentage of

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

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

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

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

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

(5) ALL INDIVIDUALS RECEIVING ASSISTANCE FROM THE TRUST FUND SHALL RECEIVE SERVICE COORDINATION AND SKILLS TRAINING. IN ADDITION TO SERVICE COORDINATION AND SKILLS TRAINING, THE BOARD SHALL DETERMINE ANY ADDITIONAL SERVICES COVERED BY THE TRUST FUND. THE

BOARD MAY PRIORITIZE THE SERVICES COVERED BY THE TRUST FUND AND ELIGIBILITY FOR THE SERVICES WHILE ENSURING FIDELITY TO THE PROGRAM'S ORIGINAL INTENT TO SERVE INDIVIDUALS WITH TRAUMATIC BRAIN INJURIES. COVERED SERVICES DO NOT INCLUDE INSTITUTIONALIZATION, HOSPITALIZATION, OR MEDICATION.

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

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

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

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

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

26-1-307. Administrative costs. The administrative expenses of the board and the state department ~~shall be~~ ARE paid from ~~moneys~~ MONEY 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 8. In Colorado Revised Statutes, **repeal** 26-1-308.

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

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

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

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

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

26-1-310. Reports to the general assembly. Notwithstanding section 24-1-136 (11)(a)(I), on September 1, 2009, and each September 1 thereafter, the board shall provide a report to the joint budget committee and the PUBLIC health CARE and human services ~~committees~~ COMMITTEE of the house of representatives and THE HEALTH AND HUMAN SERVICES COMMITTEE OF the senate, or any successor committees, on the operations of the trust

fund, the ~~moneys~~ MONEY 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~~ ARTICLE 1.

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

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

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

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

24-1-120. Department of human services - creation. (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 13. In Colorado Revised Statutes, 30-15-402, **amend** (3) as follows:

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

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

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

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

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

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

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

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

(II) If the surcharge is collected by a county, ~~or municipal court~~, the surcharge shall be ~~seventeen~~ TWENTY-TWO dollars of which two dollars shall be retained by the county ~~or municipality~~ and the remaining ~~fifteen~~ TWENTY dollars ~~shall~~ MUST be transmitted to the state treasurer and credited to the Colorado ~~traumatic~~ brain injury trust fund created pursuant to section

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

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

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

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

SECTION 18. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO