

SENATE BILL 107

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2001 Regular Session
11r0748
CF 11r0274

By: **Senators Kelley, Conway, Currie, Hughes, Lawlah, McFadden, Mitchell,
and Sfikas**

Introduced and read first time: January 15, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Mental Hygiene Administration - Traumatic Brain Injury Rehabilitation**
3 **Fund**

4 FOR the purpose of establishing a Traumatic Brain Injury Rehabilitation Fund;
5 providing that the Fund is a special continuing, nonlapsing fund; requiring the
6 annual distribution to the Fund by the District Court of moneys from certain
7 surcharges on certain traffic fines required to be assessed by police officers and
8 the courts; requiring certain lines on certain traffic citation forms; providing
9 that the purpose of the Fund is to assist certain individuals who are at least a
10 certain age and who have suffered traumatic brain injuries, and their families,
11 in paying for certain services and products; providing that the Fund shall be
12 administered by the Mental Hygiene Administration; requiring the
13 Administration to develop a list of approved providers; requiring the
14 Administration to adopt regulations that establish priorities for use of the Fund,
15 application procedures, and eligibility criteria; requiring the Administration to
16 make a certain annual report; and generally relating to the Mental Hygiene
17 Administration and individuals who suffer traumatic brain injuries.

18 BY adding to
19 Article - Courts and Judicial Proceedings
20 Section 1-605.1 and 7-301(g)
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2000 Supplement)

23 BY adding to
24 Article - Health - General
25 Section 10-927 through 10-930, inclusive, to be under the new part "Part V.
26 Traumatic Brain Injury Rehabilitation Fund"
27 Annotated Code of Maryland
28 (2000 Replacement Volume)

29 BY adding to
30 Article - Transportation

1 Section 27-101.2
2 Annotated Code of Maryland
3 (1999 Replacement Volume and 2000 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Courts and Judicial Proceedings**

7 1-605.1.

8 THE CITATION FORMS DESIGNED UNDER § 1-605(D)(8) OF THIS SUBTITLE SHALL
9 INCLUDE A LINE ON WHICH TO ADD THE \$10 SURCHARGE ASSESSED UNDER § 27-101.2
10 OF THE TRANSPORTATION ARTICLE.

11 7-301.

12 (G) (1) ON AND AFTER OCTOBER 1, 2001, IN ANY TRAFFIC CASE IN WHICH
13 POINTS MAY BE ASSESSED UNDER § 16-402 OF THE TRANSPORTATION ARTICLE
14 AFTER CONVICTION, THE COURT SHALL ADD TO ANY FINE IMPOSED BY THE COURT A
15 \$10 SURCHARGE.

16 (2) THE COURT SHALL INFORM THE INDIVIDUAL FINED THAT THE
17 COURT WILL TRANSFER THE SURCHARGE PORTION OF THE FINE TO THE TRAUMATIC
18 BRAIN INJURY REHABILITATION FUND ESTABLISHED UNDER § 10-927 OF THE
19 HEALTH - GENERAL ARTICLE.

20 (3) ON JULY 15, 2002, AND ON THE SAME DATE OF EACH YEAR
21 THEREAFTER, THE CLERKS OF THE DISTRICT COURT SHALL FORWARD THE
22 SURCHARGES COLLECTED UNDER THIS SECTION TO THE TRAUMATIC BRAIN INJURY
23 REHABILITATION FUND.

24 **Article - Health - General**

25 PART V. TRAUMATIC BRAIN INJURY REHABILITATION FUND.

26 10-927.

27 (A) IN PART V OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
28 MEANINGS INDICATED.

29 (B) "APPROVED PROVIDER" MEANS A PERSON WHO IS APPROVED BY THE
30 ADMINISTRATION TO PROVIDE PRODUCTS OR SERVICES TO AN INDIVIDUAL WITH A
31 TRAUMATIC BRAIN INJURY.

32 (C) "FUND" MEANS THE TRAUMATIC BRAIN INJURY REHABILITATION FUND.

33 (D) (1) "TRAUMATIC BRAIN INJURY" MEANS AN INSULT TO THE BRAIN THAT
34 IS CAUSED BY AN EXTERNAL PHYSICAL FORCE THAT PRODUCES, FOR A PERIOD OF

1 NOT LESS THAN 6 MONTHS, A DIMINISHED OR ALTERED STATE OF CONSCIOUSNESS
2 THAT IMPAIRS OR DISTURBS COGNITIVE, PHYSICAL, BEHAVIORAL, OR EMOTIONAL
3 FUNCTIONING.

4 (2) "TRAUMATIC BRAIN INJURY" DOES NOT INCLUDE AN INSULT TO THE
5 BRAIN THAT IS CAUSED BY A CONGENITAL OR DEGENERATIVE DISORDER.

6 10-928.

7 (A) (1) THERE IS A TRAUMATIC BRAIN INJURY REHABILITATION FUND.

8 (2) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS
9 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

10 (3) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER
11 SHALL ACCOUNT FOR THE FUND.

12 (4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
13 MANNER AS OTHER STATE FUNDS.

14 (5) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE TRANSFERRED
15 OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND
16 TO BE USED FOR THE PURPOSES SPECIFIED IN §§ 10-929 AND 10-930 OF THIS
17 SUBTITLE.

18 (B) THE FUND CONSISTS OF:

19 (1) MONEYS TRANSFERRED TO THE FUND UNDER § 7-301(G)(3) OF THE
20 COURTS ARTICLE AND § 27-101.2(B) OF THE TRANSPORTATION ARTICLE;

21 (2) MONEYS RECEIVED FROM ANY OTHER SOURCE;

22 (3) INVESTMENT EARNINGS DERIVED FROM MONEYS IN THE FUND; AND

23 (4) ANY FEDERAL MATCHING FUNDS RECEIVED BY THE STATE FOR
24 TRAUMATIC BRAIN INJURY TREATMENT OR ASSISTANCE.

25 (C) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF
26 LEGISLATIVE AUDITS AS PROVIDED UNDER § 2-1220 OF THE STATE GOVERNMENT
27 ARTICLE.

28 (D) THE ADMINISTRATION SHALL ADMINISTER THE FUND AS PROVIDED
29 UNDER § 10-930 OF THIS PART.

30 (E) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE FUND FROM
31 RECEIVING MONEYS FROM ANY OTHER SOURCE.

1 10-929.

2 (A) THE PURPOSE OF THE FUND IS TO ASSIST INDIVIDUALS, ON AND AFTER
3 OCTOBER 1, 2002, WHO HAVE SUFFERED TRAUMATIC BRAIN INJURIES AFTER THE
4 AGE OF 21, AND THEIR FAMILIES, IN PAYING FOR SERVICES AND PRODUCTS THAT:

5 (1) ARE NOT COVERED BY THE INDIVIDUAL'S HEALTH INSURANCE OR
6 ANY OTHER PRIVATE HEALTH BENEFIT PROGRAM; AND

7 (2) WILL INCREASE THE INDIVIDUAL'S OPPORTUNITY FOR AN OPTIMAL
8 QUALITY OF LIFE.

9 (B) THE FUND SHALL BE THE PAYER OF LAST RESORT FOR SERVICES AND
10 PRODUCTS DESCRIBED UNDER § 10-930(B) OF THIS PART.

11 (C) THE FUND MAY BE USED ONLY TO ASSIST RESIDENTS OF THE STATE.

12 10-930.

13 (A) THE ADMINISTRATION SHALL ADMINISTER THE FUND.

14 (B) THE ADMINISTRATION SHALL USE THE FUND TO:

15 (1) PAY FOR SERVICES AND PRODUCTS RECEIVED FROM APPROVED
16 PROVIDERS, INCLUDING:

17 (I) CASE MANAGEMENT SERVICES;

18 (II) REHABILITATIVE THERAPIES AND SERVICES;

19 (III) ATTENDANT CARE;

20 (IV) HOME ACCESSIBILITY MODIFICATIONS;

21 (V) EQUIPMENT NECESSARY FOR ACTIVITIES; AND

22 (VI) RESPITE CARE;

23 (2) PROVIDE STATE MATCHING FUNDS IN ORDER TO QUALIFY FOR
24 FEDERAL FUNDING OF TRAUMATIC BRAIN INJURY ASSISTANCE OR TREATMENT; AND

25 (3) PAY THE COSTS ASSOCIATED WITH ADMINISTERING THE FUND.

26 (C) THE ADMINISTRATION SHALL DEVELOP A LIST OF APPROVED PROVIDERS
27 AND MAKE THIS LIST AVAILABLE TO INDIVIDUALS WITH TRAUMATIC BRAIN
28 INJURIES.

29 (D) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO ESTABLISH:

30 (1) PRIORITIES FOR THE USE OF THE FUND;

1 (2) APPLICATION PROCEDURES FOR INDIVIDUALS SEEKING PAYMENTS
2 FROM THE FUND; AND

3 (3) ELIGIBILITY CRITERIA FOR INDIVIDUALS SEEKING PAYMENTS FROM
4 THE FUND, INCLUDING:

5 (I) INCOME CRITERIA THAT AUTHORIZE PAYMENTS BASED ON A
6 SLIDING SCALE; AND

7 (II) A REQUIREMENT THAT THE PRESENCE OF A TRAUMATIC BRAIN
8 INJURY BE ESTABLISHED WITH DOCUMENTED MEDICAL EVIDENCE.

9 (E) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE ADMINISTRATION SHALL
10 REPORT ON THE LEVEL OF MONEYS IN THE FUND TO THE GOVERNOR AND, SUBJECT
11 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

12 **Article - Transportation**

13 27-101.2.

14 (A) (1) ON AND AFTER OCTOBER 1, 2001, AFTER COMPUTING THE FINE TO
15 BE ASSESSED UNDER THE DISTRICT COURT'S SCHEDULE OF PRESET FINES AND/OR
16 PENALTY DEPOSITS, A POLICE OFFICER ISSUING A TRAFFIC CITATION FOR ANY
17 VIOLATION FOR WHICH POINTS MAY BE ASSESSED UNDER § 16-402 OF THIS ARTICLE
18 SHALL ADD A \$10 SURCHARGE TO THE AMOUNT OF THE TOTAL FINE BEFORE
19 PRESENTING THE CITATION TO THE DRIVER BEING CHARGED.

20 (2) THE POLICE OFFICER ISSUING THE CITATION SHALL INFORM THE
21 INDIVIDUAL FINED THAT THE COURT WILL TRANSFER THE SURCHARGE PORTION OF
22 THE FINE TO THE TRAUMATIC BRAIN INJURY REHABILITATION FUND ESTABLISHED
23 UNDER § 10-927 OF THE HEALTH - GENERAL ARTICLE.

24 (B) ON JULY 15, 2002, AND ON THE SAME DATE OF EACH YEAR THEREAFTER,
25 THE CLERKS OF THE DISTRICT COURT SHALL FORWARD THE SURCHARGES
26 COLLECTED UNDER THIS SECTION TO THE TRAUMATIC BRAIN INJURY
27 REHABILITATION FUND.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2001.