

SENATE BILL 306

Unofficial Copy  
J1  
HB 589/01 - ENV & JUD

2002 Regular Session  
2lr0355  
CF 2lr0354

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By: **Senators Kelley, Conway, Currie, Dorman, Exum, Forehand, Hoffman,  
Hughes, Lawlah, and Mitchell**

Introduced and read first time: January 24, 2002

Assigned to: Judicial Proceedings

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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; providing that  
6 the Fund consists of certain court costs; providing that the Fund may consist of  
7 funds from certain other sources; providing for the purpose of the Fund;  
8 requiring the Mental Hygiene Administration to administer the Fund; providing  
9 for certain uses of the Fund; requiring the Administration to adopt certain  
10 regulations; requiring the Administration to make a certain annual report;  
11 defining certain terms; increasing the additional court costs imposed by a court  
12 for certain traffic violations; providing that a certain amount of the additional  
13 court costs imposed by a court in certain traffic cases be distributed to the Fund;  
14 altering the current distribution of fees collected from the additional court costs  
15 imposed in certain traffic cases; and generally relating to the Mental Hygiene  
16 Administration and the Traumatic Brain Injury Rehabilitation Fund.

17 BY adding to

18 Article - Health - General  
19 Section 10-927 through 10-930, inclusive, to be under the new part "Part V.  
20 Traumatic Brain Injury Rehabilitation Fund"  
21 Annotated Code of Maryland  
22 (2000 Replacement Volume and 2001 Supplement)

23 BY repealing and reenacting, with amendments

24 Article - Courts and Judicial Proceedings  
25 Section 7-409  
26 Annotated Code of Maryland  
27 (1998 Replacement Volume and 2001 Supplement)

1 Preamble

2 WHEREAS, Maryland's trauma centers report that an average of 6,000  
3 individuals suffer a traumatic brain injury per year; and

4 WHEREAS, Individuals injured before age 21 may be eligible for ongoing  
5 funding through the Developmental Disabilities Administration, however, there is no  
6 such funding available for those injured after the age of 21; and

7 WHEREAS, The leading cause of traumatic brain injury is car accidents; and

8 WHEREAS, Individuals with traumatic brain injuries are often relegated to  
9 nursing homes and state psychiatric institutions due to the lack of funding for  
10 community-based services, resulting in enormous costs to Maryland's taxpayers; now,  
11 therefore,

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

14 **Article - Health - General**

15 **PART V. TRAUMATIC BRAIN INJURY REHABILITATION FUND.**

16 10-927.

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

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

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

23 (D) (1) "TRAUMATIC BRAIN INJURY" MEANS AN INSULT TO THE BRAIN THAT  
24 IS CAUSED BY AN EXTERNAL PHYSICAL FORCE THAT PRODUCES, FOR A PERIOD OF  
25 NOT LESS THAN 6 MONTHS, A DIMINISHED OR ALTERED STATE OF CONSCIOUSNESS  
26 THAT IMPAIRS OR DISTURBS COGNITIVE, PHYSICAL, BEHAVIORAL, OR EMOTIONAL  
27 FUNCTIONING.

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

30 10-928.

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

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

1 (3) THE TREASURER SHALL SEPARATELY HOLD AND THE COMPTROLLER  
2 SHALL ACCOUNT FOR THE FUND.

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

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

8 (B) THE FUND CONSISTS OF:

9 (1) MONEYS DISTRIBUTED TO THE FUND FROM THE ADDITIONAL COURT  
10 COSTS COLLECTED FROM DEFENDANTS UNDER § 7-409 OF THE COURTS ARTICLE;

11 (2) MONEYS RECEIVED FROM ANY OTHER SOURCE;

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

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

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

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

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

22 10-929.

23 (A) THE PURPOSE OF THE FUND IS TO ASSIST INDIVIDUALS, ON AND AFTER  
24 OCTOBER 1, 2003, WHO HAVE SUFFERED TRAUMATIC BRAIN INJURIES AFTER THE  
25 AGE OF 21, AND THEIR FAMILIES, IN PAYING FOR SERVICES AND PRODUCTS THAT:

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

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

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

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

1 10-930.

2 (A) THE ADMINISTRATION SHALL ADMINISTER THE FUND.

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

4 (1) PAY FOR SERVICES AND PRODUCTS RECEIVED FROM APPROVED  
5 PROVIDERS, INCLUDING:

6 (I) CASE MANAGEMENT SERVICES;

7 (II) REHABILITATIVE THERAPIES AND SERVICES;

8 (III) ATTENDANT CARE;

9 (IV) HOME ACCESSIBILITY MODIFICATIONS;

10 (V) EQUIPMENT NECESSARY FOR ACTIVITIES; AND

11 (VI) RESPITE CARE;

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

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

15 (C) THE ADMINISTRATION SHALL DEVELOP A LIST OF APPROVED PROVIDERS  
16 AND MAKE THIS LIST AVAILABLE TO INDIVIDUALS WITH TRAUMATIC BRAIN  
17 INJURIES.

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

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

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

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

24 (I) INCOME CRITERIA THAT AUTHORIZE PAYMENTS BASED ON A  
25 SLIDING SCALE; AND

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

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

**Article - Courts and Judicial Proceedings**

1 7-409.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Crime" means an act committed by a person in the State that is:

4 (i) A crime under Article 27 of the Code;

5 (ii) A crime under the Criminal Procedure Article;

6 (iii) A violation of the Transportation Article that is punishable by  
7 imprisonment;

8 (iv) A crime at common law; or

9 (v) A crime under § 3-218, § 3-305(c)(2), § 3-409(a) or (c), §  
10 3-803(b), § 3-807(i), § 3-808(d), § 3-811(c), § 8-801, § 8-802, § 9-602(e), §  
11 11-702(b)(8), § 11-703(d)(5)(iii), § 11-706(b)(8), § 11-708(b)(8)(ii), § 11-711(h)(2), §  
12 11-712(c)(6)(ii), § 11-714(c)(6), § 11-715(g)(2), § 11-716(h)(2), § 11-723(b)(8), or §  
13 11-726 of the Correctional Services Article.

14 (3) "Offense" means a violation of the Transportation Article that is not  
15 punishable by imprisonment.

16 (b) In addition to any other costs required by law, a circuit court shall impose  
17 on a defendant convicted of a crime an additional cost of \$45 in the case.

18 (c) In addition to any other costs required by law, the District Court shall  
19 impose on a defendant convicted of a crime an additional cost of \$35 in the case.

20 (d) In addition to any other costs required by law, a court shall impose on a  
21 defendant convicted of an offense an additional cost of [~~\$3~~] \$7 in the case, including  
22 cases in which the defendant elects to waive the right to trial and pay the fine or  
23 penalty deposit established by the Chief Judge of the District Court by administrative  
24 regulation.

25 (e) (1) All money collected under this section shall be paid to the  
26 Comptroller of the State.

27 (2) The Comptroller shall deposit \$22.50 from each fee collected under  
28 subsection (b) of this section from a circuit court and \$12.50 from each fee collected  
29 under subsection (c) of this section from the District Court into the State Victims of  
30 Crime Fund established under § 11-916 of the Criminal Procedure Article.

31 (3) The Comptroller shall deposit \$2.50 from each fee collected under  
32 subsections (b) and (c) of this section into the Victim and Witness Protection and  
33 Relocation Fund established under § 11-905 of the Criminal Procedure Article.

1           (4)     The Comptroller shall deposit all other moneys collected under  
2 subsections (b) and (c) of this section into the Criminal Injuries Compensation Fund  
3 established under § 11-819 of the Criminal Procedure Article.

4     (f)     (1)     [From the first \$500,000 in fees collected under subsection (d) of this  
5 section in each fiscal year, the Comptroller shall deposit one-half of each fee into the  
6 State Victims of Crime Fund and one-half of each fee into the Criminal Injuries  
7 Compensation Fund.] FROM THE FIRST \$3,000,000 IN FEES COLLECTED UNDER  
8 SUBSECTION (D) OF THIS SECTION, THE COMPTROLLER SHALL DEPOSIT THE ENTIRE  
9 AMOUNT INTO THE TRAUMATIC BRAIN INJURY REHABILITATION FUND, UNDER §  
10 10-928 OF THE HEALTH - GENERAL ARTICLE.

11           (2)     FROM THE NEXT \$500,000 IN FEES COLLECTED UNDER SUBSECTION  
12 (D) OF THIS SECTION IN EACH FISCAL YEAR, THE COMPTROLLER SHALL DEPOSIT  
13 ONE-HALF OF THAT AMOUNT INTO THE STATE VICTIMS OF CRIME FUND AND THE  
14 OTHER HALF OF THAT AMOUNT INTO THE CRIMINAL INJURIES COMPENSATION  
15 FUND.

16           [(2)]   (3)     For fees collected under subsection (d) of this section in excess of  
17 [\$500,000] \$3,500,000 in each fiscal year, the Comptroller shall deposit the entire  
18 [fee] AMOUNT into the Criminal Injuries Compensation Fund.

19     (g)     A political subdivision may not be held liable under any condition for the  
20 payment of sums under this section.

21     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2002.