

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

Senate Bill 306 (Senator Kelley, *et al.*)
 Judicial Proceedings

Mental Hygiene Administration - Traumatic Brain Injury Rehabilitation Fund

This bill establishes a Traumatic Brain Injury Rehabilitation Fund to assist individuals who have suffered “traumatic brain injuries” and their families in paying for services and products.

Fiscal Summary

State Effect: Special fund revenues would increase by approximately \$5.5 million annually, beginning in FY 2003, of which \$3.0 million would go to the Traumatic Brain Injury Rehabilitation Fund and \$2.5 million would go to the Criminal Injuries Compensation Fund. Expenditures from both funds are expected to match revenues over time.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
SF Revenue	\$5,500,000	\$5,500,000	\$5,500,000	\$5,500,000	\$5,500,000
SF Expenditure	-	-	-	-	-
Net Effect	\$5,500,000	\$5,500,000	\$5,500,000	\$5,500,000	\$5,500,000

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: This bill establishes a continuing, nonlapsing Traumatic Brain Injury Rehabilitation Fund to be administered by the Mental Hygiene Administration (MHA), within the Department of Health and Mental Hygiene (DHMH).

The fund consists of certain additional costs collected from certain criminal defendants, moneys received from any other source, investment earnings derived from money in the fund, and any federal matching funds received. Any unspent portion of the fund may not be transferred or revert to the State general fund at the end of each fiscal year, but would remain in the fund and could be applied in subsequent fiscal years.

The bill increases the additional court cost for a defendant convicted of a traffic violation that is not punishable by imprisonment to \$7 from the current \$3. All the money collected from these court costs must be paid to the Comptroller of the State. The Comptroller shall deposit the first \$3,000,000 in collected fees into the brain injury fund. From the next \$500,000 in collected fees for each fiscal year, the Comptroller shall deposit one-half of that amount into the State Victims of Crime Fund and the other half into the Criminal Injuries Compensation Fund. Fees collected in excess of \$3.5 million each fiscal year shall be deposited into the Criminal Injuries Compensation Fund.

The fund's purpose is to assist individuals, on and after October 1, 2003, who have suffered traumatic brain injuries after the age of 21, and their families, in paying for services and products that are not covered by health insurance and will increase the individual's opportunity for an optimal quality of life. MHA must use the fund to pay for services and products from approved providers, to provide State matching funds in order to qualify for federal funding of traumatic brain injury assistance or treatment, and to pay the costs associated with administering the fund. Products and services that may be covered by the fund include: case management services; rehabilitative therapies and services; attendant care; home accessibility modifications; equipment necessary for activities; and respite care. MHA is required to develop a list of approved providers and make this list available to individuals with traumatic brain injuries.

MHA also must develop regulations to establish fund priorities, application procedures, and eligibility criteria. Eligibility criteria must include income criteria that authorize payments based on a sliding fee scale, and a requirement that the presence of a traumatic brain injury be established with documented medical evidence. The Office of Legislative Audits is charged with auditing the fund. MHA must report to the Governor and the General Assembly on the level of money in the fund by November 1 of each year.

“Traumatic brain injury” is defined as an insult to the brain that is caused by an external physical force that produces, for a period of not less than six months, a diminished or altered state of consciousness that impairs or disturbs cognitive, physical, behavioral, or emotional functioning.

Current Law: In addition to any other costs required by law, a court must impose on a defendant convicted of a traffic violation that is not punishable by imprisonment an additional cost of \$3. This cost also applies to cases in which the defendant elects to waive the right to trial and pay the fine or penalty deposit established by the Chief Judge of the District Court of Maryland by administrative regulation. The first \$500,000 in fees collected in a fiscal year are divided equally between the State Victims of Crime Fund and the Criminal Injuries Compensation Fund. Fees collected over the \$500,000 mark are deposited entirely into the Criminal Injuries Compensation Fund.

The Criminal Injuries Compensation Fund, administered by the Criminal Injuries Compensation Board under the Department of Public Safety and Correctional Services, awards grants to innocent victims of crimes who incur financial hardship as a result of the crime. In fiscal 2001, 730 awards were made from this fund at a cost of \$4,825,817. Grants for disabilities are limited to \$25,000 and grants for medical claims are limited to \$45,000.

The State Victims of Crime Fund, administered by the State Board of Victims Services in the Governor’s Office of Crime Control and Prevention, awards grants to victims and witnesses of crimes and delinquent acts. In fiscal 2001, 39 awards were made from this fund. The total dollar amount of awards is not readily available.

Background: Maryland’s trauma centers report that an average of 6,000 individuals suffer a traumatic brain injury each year, most as a result of car accidents. Individuals injured before age 21 may be eligible for ongoing funding through the Developmental Disabilities Administration within DHMH. However, individuals 21 or older are not eligible for similar funding. Individuals with traumatic brain injuries often receive care in nursing homes and State psychiatric institutions due to a lack of funding for community-based services.

The Brain Injury Association of Maryland reports an average of 1,000 calls each year for information and referral from individuals and families in need of services. Within the community, many individuals reside with families who need support to continue to manage the individuals in the community and to prevent a more restrictive level of care. Many of these families, as members get older, are unable to care for their loved ones at home. DHMH reports that there are approximately 60 individuals with a diagnosis of

traumatic brain injury with serious disabilities residing in State psychiatric hospitals that would require comprehensive community services.

State Revenues: Special fund revenues from the additional court cost would increase by \$5.5 million annually beginning in fiscal 2003 as a result of the bill. The Administrative Office of the Courts (AOC) reports that in fiscal 2001, the \$3 additional cost was collected from 1,379,969 defendants, for a total amount collected of \$4,139,908. Assuming the fee is collected from the same number of defendants in fiscal 2003 and they are charged the new \$7 fee, \$9,659,783 would be collected. Of this amount, \$3 million would be transferred into the brain injury fund. The bill would not change the amount of funds going to the State Victims of Crime Fund (\$250,000). However, the Criminal Injuries Compensation Fund would receive the remaining \$2,519,875 in increased additional court cost revenue.

State Expenditures: Special fund expenditures for costs to administer the brain injury fund would increase by an estimated \$67,000 in fiscal 2003, which accounts for the bill's October 1, 2002 effective date. This estimate reflects the cost of hiring one program administrator and one half fiscal clerk for DHMH to administer the fund. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. There would not be any special fund expenditures for contractual services, which are composed of payments for goods and services for persons with traumatic brain injuries, in fiscal 2003 because the fund assists people who have suffered the injuries on or after October 1, 2003 (fiscal 2004).

Salaries and Fringe Benefits	\$53,214
Other Operating Expenses	<u>\$13,768</u>
Total FY 2003 Expenditures	\$66,982

Future year expenditures reflect: (1) full salaries with a 2.5% increase in fiscal 2004 and a 3.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses. Since the fund may not make any payments to providers to provide services to brain injured individuals in fiscal 2003, approximately \$2,933,000 will be carried over into fiscal 2004. DHMH may use these funds to cover the deficit in out years and to provide increased services to injured individuals and their families.

Total expenditures from the brain injury fund for each of the out years cannot be reliably estimated at this time. In any event, expenditures would be constrained by the amount of the fund balance.

DHMH advises that the estimated annual cost for serving one brain injured individual in an inpatient setting is \$125,857. The estimated annual cost for serving one individual in an outpatient setting is \$15,000. At these rates, the demand for funding could exceed the fund balance.

The AOC reports that this bill will not have a fiscal impact on the judiciary.

Office of Legislative Audits reports that the cost to audit the fund would be less than \$15,000 annually, and could be handled with existing resources. The brain injury fund audit would become part of the annual MHA audit the office already conducts.

Additional Information

Prior Introductions: A similar bill, HB 589, was introduced in the 2001 session and assigned to the Environmental Matters and Judiciary committees. A hearing was held but no further action was taken. That bill's cross file, SB 107, received an unfavorable report from the Judicial Proceedings Committee.

Cross File: HB 158 (Delegate Mohorovic, *et al.*) – Environmental Matters and Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Legislative Services (Office of Legislative Audits)

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