

STATE OF NEW YORK

158

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. CAHILL, THIELE, SIMOTAS, BENEDETTO, ABBATE, ORTIZ, McDONOUGH, OTIS, ENGLEBRIGHT, LUPARDO, RIVERA, COOK, D'URSO, PALUMBO, BLAKE, LAWRENCE, AUBRY, STECK, ABINANTI, WEPRIN, WOERNER -- Multi-Sponsored by -- M. of A. GALEF, GIGLIO, WALSH -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law and the vehicle and traffic law, in relation to the creation of the traumatic brain injury trust fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The state finance law is amended by adding a new section
2 99-ff to read as follows:

3 § 99-ff. Traumatic brain injury trust fund. 1. There is hereby estab-
4 lished in the joint custody of the state comptroller and the commission-
5 er of taxation and finance a fund to be known as the traumatic brain
6 injury trust fund. A traumatic brain injury trust fund authority shall
7 be appointed to administer the traumatic brain injury trust fund.

8 2.(a) The traumatic brain injury trust fund authority shall consist of
9 ten members serving for terms of three years. All members shall be
10 appointed by the governor, five of whom shall be citizens who have
11 sustained traumatic brain injury or members of such persons' immediate
12 families, no more than one of whom shall reside in the same geographic
13 area of the state. The governor shall appoint the remaining five members
14 from recommendations submitted by the Brain Injury Association of New
15 York State and other organizations or facilities that specialize in
16 brain injury rehabilitation.

17 (b) The governor shall designate a chairperson of the authority from
18 among its members, which chairperson shall serve at the pleasure of the
19 governor. The authority may elect such other officers and committees as
20 it considers appropriate.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (c) The members shall receive no compensation for their services as
2 members, but shall be reimbursed for their actual and necessary expenses
3 incurred in the performance of their duties.

4 (d) The authority shall have the power to accept applications for
5 disbursements of available money from the fund and authorize disburse-
6 ment of funds to qualified individuals, as defined in subdivision four
7 of this section.

8 (e) The authority shall adopt rules and regulations for the adminis-
9 tration of the fund to carry out the purposes and provisions of this
10 section. Such regulations shall be adopted in accordance with article
11 two of the state administrative procedure act.

12 3. Such fund shall consist of all moneys appropriated for the purpose
13 of such fund, moneys collected by the state from courts of the unified
14 court system pursuant to sections eighteen hundred nine and eighteen
15 hundred nine-c of the vehicle and traffic law and all other moneys
16 transferred to such fund pursuant to law. Any interest earned by the
17 investment of moneys in such fund shall be added to such fund, become a
18 part of such fund, and be used for the purpose of such fund.

19 4. Monies of the fund shall be expended only to qualified individuals
20 not eligible for Medicaid funded, or otherwise insurance covered, trau-
21 matic brain injury programs and services. Such fund shall be a payer of
22 last resort for all applicable supports and services. A qualified indi-
23 vidual must:

24 (a) provide medical documentation of a traumatic brain injury, as
25 defined by section twenty-seven hundred forty-one of the public health
26 law;

27 (b) be a New York resident for at least ninety consecutive days prior
28 to application date;

29 (c) have less than one hundred thousand dollars in liquid assets;

30 (d) provide proof of denial from other funding sources; and

31 (e) be willing to accept services from an approved facility or
32 program.

33 5. Monies shall be payable from the fund on the audit and warrant of
34 the comptroller on vouchers approved and certified by the authority.
35 Annually, payments from the fund shall be capped at three thousand
36 dollars per individual, with a lifetime cap of one hundred thousand
37 dollars per individual.

38 § 2. Subdivision 3 of section 1809 of the vehicle and traffic law, as
39 amended by chapter 309 of the laws of 1996, is amended to read as
40 follows:

41 3. The mandatory surcharge provided for in subdivision one of this
42 section shall be paid to the clerk of the court or administrative tribu-
43 nal that rendered the conviction. Within the first ten days of the month
44 following collection of the mandatory surcharge the collecting authority
45 shall determine the amount of mandatory surcharge collected and, if it
46 is an administrative tribunal or a town or village justice court, it
47 shall pay such money to the state comptroller who shall deposit such
48 money in the state treasury pursuant to section one hundred twenty-one
49 of the state finance law to the credit of the general fund; provided,
50 however, that the comptroller shall deposit ten percent of such money
51 collected for violations of sections eleven hundred eighty, eleven
52 hundred ninety-two and twelve hundred twelve of this chapter to the
53 credit of the traumatic brain injury trust fund established pursuant to
54 section ninety-nine-ff of the state finance law. If such collecting
55 authority is any other court of the unified court system, it shall,
56 within such period, pay such money to the state commissioner of taxation

1 and finance to the credit of the criminal justice improvement account
2 established by section ninety-seven-bb of the state finance law;
3 provided, however, that the state commissioner of taxation and finance
4 shall deposit ten percent of such money collected for violations of
5 sections eleven hundred eighty, eleven hundred ninety-two and twelve
6 hundred twelve of this chapter to the credit of the traumatic brain
7 injury trust fund established pursuant to section ninety-nine-ff of the
8 state finance law. The crime victim assistance fee provided for in
9 subdivision one of this section shall be paid to the clerk of the court
10 or administrative tribunal that rendered the conviction. Within the
11 first ten days of the month following collection of the crime victim
12 assistance fee, the collecting authority shall determine the amount of
13 crime victim assistance fee collected and, if it is an administrative
14 tribunal or a town or village justice court, it shall pay such money to
15 the state comptroller who shall deposit such money in the state treasury
16 pursuant to section one hundred twenty-one of the state finance law to
17 the credit of the criminal justice improvement account established by
18 section ninety-seven-bb of the state finance law.

19 § 3. Subdivision 2 of section 1809-c of the vehicle and traffic law,
20 as added by section 37 of part J of chapter 62 of the laws of 2003, is
21 amended to read as follows:

22 2. The additional surcharge provided for in subdivision one of this
23 section shall be paid to the clerk of the court that rendered the
24 conviction. Within the first ten days of the month following collection
25 of the surcharge the collecting authority shall determine the amount of
26 surcharge collected and it shall pay such money to the state comptroller
27 who shall deposit such money in the state treasury pursuant to section
28 one hundred twenty-one of the state finance law to the credit of the
29 general fund; provided, however, that the state comptroller shall depos-
30 it ten percent of such money collected pursuant to this section to the
31 credit of the traumatic brain injury trust fund established pursuant to
32 section ninety-nine-ff of the state finance law.

33 § 4. This act shall take effect immediately.