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:

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

§ 99-ff. Traumatic brain injury trust fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the traumatic brain injury trust fund. A traumatic brain injury trust fund authority shall be appointed to administer the traumatic brain injury trust fund.

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

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

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

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

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

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

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

4. Monies of the fund shall be expended only to qualified individuals not eligible for Medicaid funded, or otherwise insurance covered, traumatic brain injury programs and services. Such fund shall be a payer of last resort for all applicable supports and services. A qualified individual must:

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

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

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

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

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

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

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

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

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

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

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

§ 4. This act shall take effect immediately.