

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1256

Introduced by

Representatives D. Anderson, Rich S. Becker, Mooney

1 A BILL for an Act to amend and reenact subdivision a of subsection 4 of section 15.1-32-01,
2 sections 50-06.4-01, 50-06.4-02, 50-06.4-04, 50-06.4-05, 50-06.4-06, 50-06.4-07, 50-06.4-08,
3 50-06.4-09, 50-24.1-33, and 54-38-05, and subsection 25 of section 65-01-02 of the North
4 Dakota Century Code, relating to the definition of brain injury; and to provide an appropriation.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subdivision a of subsection 4 of section 15.1-32-01 of the
7 North Dakota Century Code is amended and reenacted as follows:

8 a. "Student with a disability" means an individual who is at least three years of age
9 but who has not reached the age of twenty-one before September first of the year
10 in which the individual turns twenty-one and who requires special education and
11 related services because of:

- 12 (1) An intellectual disability;
- 13 (2) A hearing impairment, including deafness;
- 14 (3) Deaf-blindness;
- 15 (4) A speech or language impairment;
- 16 (5) A visual impairment, including blindness;
- 17 (6) An emotional disturbance;
- 18 (7) An orthopedic impairment;
- 19 (8) Autism;
- 20 (9) A traumatic brain injury;
- 21 (10) Other health impairment; or
- 22 (11) A specific learning disability.

23 **SECTION 2. AMENDMENT.** Section 50-06.4-01 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **50-06.4-01. Definitions.**

2 As used in this chapter:

3 1. "Brain injury" means any injury to the brain which occurs after birth, but before age
4 sixty-five, which is acquired through traumatic or nontraumatic insults. Nontraumatic
5 insults include anoxia, aneurysm, and encephalopathy. The term does not include
6 hereditary, congenital, or degenerative brain disorders or injuries induced by birth
7 trauma.

8 2. "Department" means the department of human services.

9 ~~2. "Traumatic brain injury" means an acquired injury to the brain caused by an external~~
10 ~~physical force resulting in total or partial disability or impairment, including open and~~
11 ~~closed head injuries that may result in mild, moderate, or severe impairments in one or~~
12 ~~more areas including cognition, language, memory, attention, reasoning, abstract~~
13 ~~thinking, judgment, problem-solving, sensory perceptual and motor abilities,~~
14 ~~psychosocial behavior, physical functioning, information processing, and speech. The~~
15 ~~term does not include brain injuries that are congenital or degenerative or brain~~
16 ~~injuries induced by birth trauma, but may include brain injuries caused by anoxia and~~
17 ~~other related causes.~~

18 **SECTION 3. AMENDMENT.** Section 50-06.4-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **50-06.4-02. Department to be lead agency - Cooperation of other agencies - Joint**
21 **meeting.**

22 The department shall act as lead agency in the state for the purpose of coordinating
23 services to ~~persons~~individuals with ~~traumatic~~ brain injury. At least annually the department shall
24 call a joint meeting of the adjutant general, the state department of health, the department of
25 veterans' affairs, and the superintendent of public instruction to discuss the provision of services
26 to individuals with ~~traumatic~~ brain injury. State agencies and political subdivision agencies shall
27 cooperate with the department to permit the department to efficiently coordinate services to
28 ~~persons~~individuals with ~~traumatic~~ brain injury while avoiding duplication of services. Neither this
29 chapter, nor any activity undertaken by the department under this chapter, may be construed as
30 creating a right to any benefit or service not specifically required to be granted as a condition of
31 the receipt of grants of federal funds.

1 **SECTION 4. AMENDMENT.** Section 50-06.4-04 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-06.4-04. Authority to accept and expend grants, gifts, and services.**

4 The department may apply for and accept any funds, grants, gifts, or services made
5 available for the purpose of providing or coordinating services to ~~persons~~individuals with
6 ~~traumatic~~ brain injury by any federal agency or department or any private agency or individual.
7 Funds received by the department under this section must be deposited in the state treasury in
8 a special fund designated as the ~~traumatic~~ brain injury fund and may be spent within the limits
9 of legislative appropriation.

10 **SECTION 5. AMENDMENT.** Section 50-06.4-05 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **50-06.4-05. ~~Traumatic brain~~Brain injury - Prevention and identification activities.**

13 The department shall provide outreach services and conduct public awareness efforts
14 regarding the prevention and identification of ~~traumatic~~ brain injury.

15 **SECTION 6. AMENDMENT.** Section 50-06.4-06 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **50-06.4-06. ~~Traumatic brain~~Brain injury - Services and activities - Acceptance of**
18 **moneys.**

19 The department may accept and expend moneys from any public or private source,
20 including federal sources, for any purpose involving ~~traumatic~~ brain injuries or the provision of
21 services to individuals with ~~traumatic~~ brain injury and their families.

22 **SECTION 7. AMENDMENT.** Section 50-06.4-07 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **50-06.4-07. ~~Traumatic brain~~Brain injury - Informal supports - Contracts - Exemption.**

- 25 1. The department shall contract with public or private entities for the provision of
26 informal supports to individuals with ~~traumatic~~ brain injury. As used in this section,
27 "informal supports" includes information sharing and referral services, peer mentoring,
28 training, facilitation of support groups, public awareness efforts, and individual and
29 programmatic advocacy efforts.
- 30 2. Any entity contracting with the department under this section must:

- 1 a. Demonstrate expertise in serving and enhancing the quality of life for individuals
- 2 with ~~traumatic~~ brain injury;
- 3 b. Agree to work in cooperation with the department, case managers, and veterans'
- 4 service officers; and
- 5 c. Agree to consult with veterans and other individuals having a ~~traumatic~~ brain
- 6 injury, their families, and their caregivers.
- 7 3. The department is exempt from complying with chapter 54-44.4 with respect to
- 8 contracting for the provision of informal supports under this section.

9 **SECTION 8. AMENDMENT.** Section 50-06.4-08 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **50-06.4-08. Social and recreational services.**

12 The department shall provide or contract for the provision of social and recreational
13 services, including day supports, to individuals with ~~traumatic~~ brain injury, if the department
14 determines that available vocational rehabilitative services do not meet the individuals' needs.

15 **SECTION 9. AMENDMENT.** Section 50-06.4-09 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **50-06.4-09. Vocational rehabilitation and consultation.**

18 The department shall provide or contract for the provision of increased and specialized
19 vocational rehabilitation and consultation to individuals with ~~traumatic~~ brain injury who receive
20 case management for personal care services. Services under this section include extended
21 support for individuals at risk of losing their employment upon exhausting their vocational
22 services.

23 **SECTION 10. AMENDMENT.** Section 50-24.1-33 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **50-24.1-33. ~~Traumatic brain~~Brain injury - Home and community-based services -**
26 **Outreach activities - Quality control.**

- 27 1. As part of the personal care services program for eligible medical assistance
- 28 recipients and as part of the department's services for eligible disabled and elderly
- 29 individuals, the department shall provide home and community-based services to
- 30 individuals who have moderate or severe impairments as a result of a ~~traumatic~~ brain
- 31 injury. The department shall give priority under this section to individuals whose

1 impairments are less severe or similar to those of individuals who are eligible for
2 medicaid waivers.

3 2. The department shall conduct outreach and public awareness activities regarding the
4 availability of home and community-based services to individuals who have moderate
5 or severe impairments as a result of a ~~traumatic~~ brain injury.

6 3. The department shall conduct quality control activities and make training available to
7 case managers and other persons providing services to individuals under this section.

8 **SECTION 11. AMENDMENT.** Section 54-38-05 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **54-38-05. Duties of department.**

11 The department shall:

- 12 1. Study alcoholism and drug abuse and related problems, including methods and
13 facilities available for the care, custody, detention, treatment, employment, and
14 rehabilitation of resident alcoholics and drug dependent persons.
- 15 2. Promote meetings and programs for the discussion of alcoholism and drug abuse or
16 any of their aspects, disseminate information on the subject of alcoholism and drug
17 abuse for the guidance and assistance of individuals, courts, and public or private
18 agencies for the prevention of alcoholism and drug abuse, and inform and educate the
19 general public on problems of alcoholism and drug abuse, their prevention and
20 treatment, to the end that alcoholism and drug abuse may be prevented and that
21 persons suffering from alcoholism or drug dependency may be disposed to seek
22 available treatment.
- 23 3. Conduct, promote, and finance, in full or in part, studies, investigations, and research,
24 independently or in cooperation with universities, colleges, scientific organizations,
25 and public or private agencies.
- 26 4. Accept for examination, diagnosis, guidance, and treatment, insofar as funds permit,
27 any resident of the state coming to the department of that person's own volition for
28 advice and guidance. For purposes of this subsection, "any resident" includes
29 veterans and nonveterans who have a ~~traumatic~~ brain injury.
- 30 5. Establish, from time to time, policies governing the evaluation, acceptance, care, and
31 treatment of alcoholics and drug dependent persons.

- 1 6. Develop, through consultation with the director of the department of transportation, a
2 policy governing programs for persons who, subsequent to being convicted for traffic
3 offenses, are referred to educational courses on alcohol, drugs, and driving.

4 **SECTION 12. AMENDMENT.** Subsection 25 of section 65-01-02 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 25. "Permanent total disability" means disability that is the direct result of a compensable
7 injury that prevents an employee from performing any work and results from any one
8 of the following conditions:

- 9 a. Total and permanent loss of sight of both eyes;
10 b. Loss of both legs or loss of both feet at or above the ankle;
11 c. Loss of both arms or loss of both hands at or above the wrist;
12 d. Loss of any two of the members or faculties in subdivision a, b, or c;
13 e. Permanent and complete paralysis of both legs or both arms or of one leg and
14 one arm;
15 f. Third-degree burns that cover at least forty percent of the body and require
16 grafting;
17 g. A medically documented ~~traumatic~~ brain injury affecting cognitive and mental
18 functioning which renders an employee unable to provide self-care and requires
19 supervision or assistance with a majority of the activities of daily living; or
20 h. A compensable injury that results in a permanent partial impairment rating of the
21 whole body of at least twenty-five percent pursuant to section 65-05-12.2.

22 If the employee has not reached maximum medical improvement within one hundred
23 four weeks, the employee may receive a permanent partial impairment rating if a
24 rating will assist the organization in assessing the employee's capabilities. Entitlement
25 to a rating is solely within the discretion of the organization.

26 **SECTION 13. APPROPRIATION.** There is appropriated out of any moneys in the general
27 fund in the state treasury, not otherwise appropriated, the sum of \$10,000, or so much of the
28 sum as may be necessary, to the department of human services for the purpose of training and
29 public awareness related to the expansion in eligibility for brain injury services, for the biennium
30 beginning July 1, 2015, and ending June 30, 2017.