

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1256

Introduced by

Representatives D. Anderson, Rich S. Becker, Mooney

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

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

6 **SECTION 1. AMENDMENT.** Section 50-06.4-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-06.4-01. Definitions.**

9 As used in this chapter:

- 10 1. "Brain injury" means any injury to the brain which occurs after birth and which is
11 acquired through traumatic or nontraumatic insults. The term does not include
12 hereditary, congenital, ~~nontraumatic~~ encephalopathy, ~~nontraumatic~~ aneurysm, ~~stroke,~~
13 or degenerative brain disorders or injuries induced by birth trauma.
- 14 2. "Department" means the department of human services.
- 15 2. ~~"Traumatic brain injury" means an acquired injury to the brain caused by an external~~
16 ~~physical force resulting in total or partial disability or impairment, including open and~~
17 ~~closed head injuries that may result in mild, moderate, or severe impairments in one or~~
18 ~~more areas including cognition, language, memory, attention, reasoning, abstract~~
19 ~~thinking, judgment, problem solving, sensory perceptual and motor abilities,~~
20 ~~psychosocial behavior, physical functioning, information processing, and speech. The~~
21 ~~term does not include brain injuries that are congenital or degenerative or brain~~
22 ~~injuries induced by birth trauma, but may include brain injuries caused by anoxia and~~
23 ~~other related causes.~~

1 **SECTION 2. AMENDMENT.** Section 50-06.4-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-06.4-02. Department to be lead agency - Cooperation of other agencies - Joint**
4 **meeting.**

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

15 **SECTION 3. AMENDMENT.** Section 50-06.4-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **50-06.4-04. Authority to accept and expend grants, gifts, and services.**

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

24 **SECTION 4. AMENDMENT.** Section 50-06.4-05 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **50-06.4-05. ~~Traumatic brain~~Brain injury - Prevention and identification activities.**

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

29 **SECTION 5. AMENDMENT.** Section 50-06.4-06 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **50-06.4-06. Traumatic brain Brain injury - Services and activities - Acceptance of**
2 **moneys.**

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

6 **SECTION 6. AMENDMENT.** Section 50-06.4-07 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-06.4-07. Traumatic brain Brain injury - Informal supports - Contracts - Exemption.**

- 9 1. The department shall contract with public or private entities for the provision of
10 informal supports to individuals with ~~traumatic~~ brain injury. As used in this section,
11 "informal supports" includes information sharing and referral services, peer mentoring,
12 training, facilitation of support groups, public awareness efforts, and individual and
13 programmatic advocacy efforts.
- 14 2. Any entity contracting with the department under this section must:
- 15 a. Demonstrate expertise in serving and enhancing the quality of life for individuals
16 with ~~traumatic~~ brain injury;
- 17 b. Agree to work in cooperation with the department, case managers, and veterans'
18 service officers; and
- 19 c. Agree to consult with veterans and other individuals having a ~~traumatic~~ brain
20 injury, their families, and their caregivers.
- 21 3. The department is exempt from complying with chapter 54-44.4 with respect to
22 contracting for the provision of informal supports under this section.

23 **SECTION 7. AMENDMENT.** Section 50-06.4-08 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **50-06.4-08. Social and recreational services.**

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

29 **SECTION 8. AMENDMENT.** Section 50-06.4-09 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **50-06.4-09. Vocational rehabilitation and consultation.**

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

7 **SECTION 9. AMENDMENT.** Section 50-24.1-33 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **50-24.1-33. ~~Traumatic brain~~Brain injury - Home and community-based services -**
10 **Outreach activities - Quality control.**

- 11 1. As part of the personal care services program for eligible medical assistance
12 recipients and as part of the department's services for eligible disabled and elderly
13 individuals, the department shall provide home and community-based services to
14 individuals who have moderate or severe impairments as a result of a ~~traumatic~~ brain
15 injury. The department shall give priority under this section to individuals whose
16 impairments are less severe or similar to those of individuals who are eligible for
17 medicaid waivers.
- 18 2. The department shall conduct outreach and public awareness activities regarding the
19 availability of home and community-based services to individuals who have moderate
20 or severe impairments as a result of a ~~traumatic~~ brain injury.
- 21 3. The department shall conduct quality control activities and make training available to
22 case managers and other persons providing services to individuals under this section.

23 **SECTION 10. AMENDMENT.** Section 54-38-05 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **54-38-05. Duties of department.**

26 The department shall:

- 27 1. Study alcoholism and drug abuse and related problems, including methods and
28 facilities available for the care, custody, detention, treatment, employment, and
29 rehabilitation of resident alcoholics and drug dependent persons.
- 30 2. Promote meetings and programs for the discussion of alcoholism and drug abuse or
31 any of their aspects, disseminate information on the subject of alcoholism and drug

1 abuse for the guidance and assistance of individuals, courts, and public or private
2 agencies for the prevention of alcoholism and drug abuse, and inform and educate the
3 general public on problems of alcoholism and drug abuse, their prevention and
4 treatment, to the end that alcoholism and drug abuse may be prevented and that
5 persons suffering from alcoholism or drug dependency may be disposed to seek
6 available treatment.

7 3. Conduct, promote, and finance, in full or in part, studies, investigations, and research,
8 independently or in cooperation with universities, colleges, scientific organizations,
9 and public or private agencies.

10 4. Accept for examination, diagnosis, guidance, and treatment, insofar as funds permit,
11 any resident of the state coming to the department of that person's own volition for
12 advice and guidance. For purposes of this subsection, "any resident" includes
13 veterans and nonveterans who have a traumatic brain injury.

14 5. Establish, from time to time, policies governing the evaluation, acceptance, care, and
15 treatment of alcoholics and drug dependent persons.

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

19 **SECTION 11. AMENDMENT.** Subsection 25 of section 65-01-02 of the North Dakota
20 Century Code is amended and reenacted as follows:

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

24 a. Total and permanent loss of sight of both eyes;

25 b. Loss of both legs or loss of both feet at or above the ankle;

26 c. Loss of both arms or loss of both hands at or above the wrist;

27 d. Loss of any two of the members or faculties in subdivision a, b, or c;

28 e. Permanent and complete paralysis of both legs or both arms or of one leg and
29 one arm;

30 f. Third-degree burns that cover at least forty percent of the body and require
31 grafting;

- 1 g. A medically documented traumatic brain injury affecting cognitive and mental
2 functioning which renders an employee unable to provide self-care and requires
3 supervision or assistance with a majority of the activities of daily living; or
4 h. A compensable injury that results in a permanent partial impairment rating of the
5 whole body of at least twenty-five percent pursuant to section 65-05-12.2.
6 If the employee has not reached maximum medical improvement within one hundred
7 four weeks, the employee may receive a permanent partial impairment rating if a
8 rating will assist the organization in assessing the employee's capabilities. Entitlement
9 to a rating is solely within the discretion of the organization.

10 **SECTION 12. LEGISLATIVE MANAGEMENT STUDY.** During the 2015-16 interim, the
11 legislative management shall consider studying brain injury care, specifically gathering client
12 data from all brain injury service providers under contract with the department of human
13 services, including information on brain injury type, age of consent, age of referral, number of
14 brain injuries, and whether the individual was included or excluded from the service. The
15 legislative management shall report its findings and recommendations with any legislation
16 required to implement the recommendations to the sixty-fifth legislative assembly.