

FIRST REGULAR SESSION

HOUSE BILL NO. 957

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (155).

Read 1st time February 22, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1822L.02I

AN ACT

To repeal sections 192.745, 199.001, 199.003, 199.009, and 304.028, RSMo, and to enact in lieu thereof five new sections relating to the brain injury advisory council.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 192.745, 199.001, 199.003, 199.009, and 304.028, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 192.745, 199.001,
3 199.003, 199.009, and 304.028, to read as follows:

192.745. 1. The "Missouri [Head] **Brain** Injury Advisory Council" [is hereby
2 established] as created by executive order of the governor on March 5, 1985 **is hereby**
3 **transferred to the department of health and senior services by executive order 05-09 issued**
4 **on February 2, 2005**. The council shall consist of twenty-five members. The members of the
5 council that are serving on [August 13, 1986] **February 2, 2005**, shall continue [serving on the
6 following basis: the two members of the council who are members of the house of
7 representatives and appointed by the speaker of the house of representatives shall serve for the
8 remainder of their terms; the two members of the council who are members of the senate
9 appointed by the president pro tempore of the senate shall serve for the remainder of their terms;
10 and the remaining twenty-one members shall determine by lot which seven are to have a one-year
11 term, which seven are to have a two-year term, and which seven are to have a three-year term]
12 **to fulfill their current terms. Through attrition, the council will decrease from the present**
13 **twenty-five members to eighteen members**. Thereafter, the successors to each of these
14 [twenty-one] members shall **be appointed by the director of the department of health and**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **senior services to** serve a three-year term and [until the member's successor is appointed by the
16 governor with the advice and consent of the senate. In addition, two members who are members
17 of the house of representatives shall be appointed by the speaker of the house and two members
18 who are members of the senate shall be appointed by the president pro tempore of the senate.
19 The members appointed by the governor shall represent] **shall be appointed on the following**
20 **basis: four** people with [head] **brain** injuries[,] **or** relatives of persons with [head] **brain**
21 injuries, [proprietary schools as defined in section 173.600, RSMo,] **and fourteen others from**
22 professional groups, health institutions, [or] **community groups**, private industry and state
23 agencies which administer programs regarding mental health, education, public health, public
24 safety, insurance, and Medicaid. The appointment of individuals representing state agencies
25 shall be conditioned on their continued employment with their respective agencies.

26 2. The Missouri [head] **brain** injury advisory council is assigned to the [division of
27 general services in the office of administration] **department of health and senior services**. The
28 [office of administration] **department** shall submit estimates of requirements for appropriations
29 on behalf of the council for the necessary staff and expenses to carry out the duties and
30 responsibilities assigned by the council. [Such staff shall consist of a director and other support
31 staff.]

32 3. Meetings **of the full council** shall be held at least [every ninety days] **twice a year** or
33 at the call of the council chairperson, who shall be elected by the council. **Subcommittees may**
34 **meet on an as needed basis.**

35 4. [Each member shall, subject to appropriations, be reimbursed for reasonable and
36 necessary expenses actually incurred in the performance of the member's official duties.]
37 **Members of the council shall not receive any compensation for their services, but they**
38 **shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred**
39 **in the performance of their duties from funds appropriated for this purpose.**

40 5. The council shall adopt written procedures to govern its activities. [Staff and
41 consultants shall be provided for the council from appropriations requested by the commissioner
42 of the office of administration for such purpose.]

43 6. The council, **under the direction of the department**, shall make recommendations
44 to the [governor] **director of the department of health and senior services** for developing and
45 administering a state plan to provide services for [head] **brain** injured persons.

46 7. No member of the council may participate in or seek to influence a decision or vote
47 of the council if the member would be directly involved with the matter or if the member would
48 derive income from it. A violation of the prohibition contained herein shall be grounds for a
49 person to be removed as a member of the council by the [governor] **director of the department**
50 **of health and senior services.**

51 8. The council shall be advisory and shall:

52 (1) Promote meetings and programs for the discussion of reducing the debilitating effects
53 of [head] **brain** injuries and disseminate information in cooperation with any other department,
54 agency or entity on the prevention, evaluation, care, treatment and rehabilitation of persons
55 affected by [head] **brain** injuries;

56 (2) Study and review current prevention, evaluation, care, treatment and rehabilitation
57 technologies and recommend appropriate preparation, training, retraining and distribution of
58 manpower and resources in the provision of services to [head-injured] **brain-injured** persons
59 through private and public residential facilities, day programs and other specialized services;

60 (3) Recommend [what] specific methods, means and procedures [should be adopted] to
61 improve and upgrade the state's service delivery system for [head-injured] **brain-injured** citizens
62 of this state;

63 (4) Participate in developing and disseminating criteria and standards which may be
64 required for future funding or licensing of facilities, day programs and other specialized services
65 for [head-injured] **brain-injured** persons in this state;

66 (5) Report annually to the [commissioner of administration] **director of the department**
67 **of health and senior services**, the governor, and the general assembly on its activities, and on
68 the results of its studies and the recommendations of the council.

69 9. The [office of administration] **department of health and senior services** may accept
70 on behalf of the council federal funds, gifts and donations from individuals, private organizations
71 and foundations, and any other funds that may become available.

199.001. As used in sections 199.001 to 199.055, the following terms mean:

2 (1) "[Division] **Department**", the [division of injury prevention, head injury
3 rehabilitation and local health services of the] department of health and senior [services]
4 **services' adult head injury program**;

5 (2) "[Head] **Brain** injury" [includes head injury, traumatic head injury, and spinal cord
6 injury as defined in section 192.735, RSMo] or "**traumatic brain injury**", a sudden insult or
7 **damage to the brain or its coverings, not of a degenerative nature. Such insult or damage**
8 **may produce an altered state of consciousness and may result in a decrease of one or more**
9 **of the following: mental, cognitive, behavioral, or physical functioning resulting in partial**
10 **or total disability. Cerebral vascular accidents, aneurisms, and congenital deficits are**
11 **excluded from this definition**;

12 (3) "Injury or trauma", any unintentional or intentional damage to the body resulting
13 from acute exposure to thermal, mechanical, electrical, or chemical energy or from the absence
14 of such essentials as heat or oxygen;

15 (4) "Rehabilitation", a comprehensive series of interventions for physical, medical,
16 cognitive and psychological disabilities designed to restore a person to his maximum functional
17 potential.

199.003. 1. [The "Division of Injury Prevention, Head Injury Rehabilitation and Local
2 Health Services" is hereby created and shall be a division of the department of health and senior
3 services.] The [division] **department** shall have the responsibility, **subject to appropriations**,
4 of ensuring that injury prevention and [head] **brain** injury rehabilitation evaluation, [case
5 management] **service coordination**, treatment, rehabilitation, and community support services
6 are accessible, wherever possible. [The division shall have and exercise supervision of division
7 rehabilitation facilities, residential programs and specialized services operated by the division
8 and oversight of facilities, programs and services funded by the division. The division may also
9 plan for prevention, treatment, rehabilitation and care, including hospice, for persons with other
10 diseases as determined by the general assembly by appropriations. The division shall also have
11 responsibilities for the support, development, and coordination of local health services.]

12 2. The powers, functions and duties of the [division] **department** shall include the
13 following:

14 (1) [Provision of funds for] Planning **and implementing**, in cooperation with the
15 Missouri [head] **brain** injury advisory council [and implementation of] , accessible programs to
16 [rehabilitate and care for] **promote rehabilitation and community reintegration of** persons
17 with [head injuries, injury prevention and research] **brain injuries**;

18 (2) Provision of technical assistance and training to community-based programs [and
19 assistance and cooperation to programs of political subdivisions designed to assist in planning
20 and implementing quality services] **assisting persons with brain injuries**;

21 (3) Assurance of [program] quality [in compliance with such appropriate standards for
22 residential facilities, day programs, and specialized programs as may be established by the
23 division] **for brain injury services funded by the department**;

24 (4) Sponsorship and encouragement of research into the causes, effects, prevention,
25 treatment and rehabilitation of injuries and appropriateness and cost and benefit effectiveness
26 of [head] **brain** injury rehabilitation, residential programs and specialized services;

27 (5) Provision of public information relating to injury prevention and [head] **brain** injury
28 treatment and rehabilitation;

29 (6) Cooperation with nonstate governmental agencies and [the] private sector [in
30 establishing, conducting, integrating and coordinating] programs and projects relating to injury
31 prevention and [head] **brain** injury treatment and rehabilitation;

32 (7) [Review and oversight of those portions of the department's annual budget which are
33 directed for injury prevention and head injury services;

34 (8) Encouragement of the utilization, support, assistance and dedication of volunteers
35 to assist persons affected by head injuries to be accepted and integrated into normal community
36 activities;

37 (9) Support, development, and coordination of local health services, which shall include
38 but shall not be limited to:

39 (a) Professional resources and staff development;

40 (b) Services assessment and coordination;

41 (c) Standards development, implementation and quality assurance;

42 (d) Provision of basic public health services in areas not served by local public health
43 agencies;

44 (e) Fiscal resources and management;

45 (f) Technical assistance; and

46 (g) Assistance with public health problems, emergencies and conditions] **Receiving**
47 **federal grants and aids for injury prevention and for persons with brain injuries and brain**
48 **injury rehabilitation under the terms of the grants and aids and administering or paying**
49 **them out. The director shall approve such applications for federal assistance administered**
50 **through the department as may be considered advisable in consultation with the Missouri**
51 **brain injury advisory council;**

52 (8) **Promulgating rules under the provisions of this section, as necessary to**
53 **prescribe policies or standards which affect charging and funding of adult brain injury**
54 **rehabilitation services. The rules applicable to each program or service operated or funded**
55 **by the department shall be available for public inspection and review at such program or**
56 **service. The rules and policies shall be compatible with and appropriate to the program**
57 **mission, population served, size, type of service, and other reasonable classifications;**

58 (9) **Promulgating reasonable rules relative to the implementation of participant**
59 **rights described in sections 199.001 to 199.051;**

60 (10) **Promulgating rules setting forth a reasonable standard means test which shall**
61 **be applied to all programs and services funded by the department in determining eligibility**
62 **for such services.**

63 **3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
64 **that is created under the authority delegated in this section shall become effective only if**
65 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
66 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
67 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
68 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**

69 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
70 **adopted after August 28, 2007, shall be invalid and void.**

199.009. 1. The [division] **department** may provide injury prevention, and [head] **brain**
2 injury evaluation, care, treatment, rehabilitation and such related services directly or through
3 contracts from private and public vendors in this state, the quality of the services being equal,
4 appropriate and consistent with professional advice in the least restrictive environment and as
5 close to an individual's home community as possible, with funds appropriated for this purpose.

6 2. If it is determined through a comprehensive evaluation that a person [is suffering from
7 a head] **has a traumatic brain** injury so as to require the coordination of provision of services,
8 including other state governmental agencies, nongovernmental and the private sector, and if such
9 person, such person's parent, if the person is a minor, or legal guardian, so requests, the [division]
10 **department** shall, within the limits of available resources and subject to relevant federal and
11 state laws, secure a comprehensive program of any necessary services for such person. Such
12 services [may include, but need not be limited to, the following:

- 13 (1) Assessment and evaluation;
- 14 (2) Case management;
- 15 (3) Counseling;
- 16 (4) Respite care;
- 17 (5) Recreation;
- 18 (6) Rehabilitation;
- 19 (7) Cognitive retraining;
- 20 (8) Prevocational rehabilitation;
- 21 (9) Residential care;
- 22 (10) Homemaker services;
- 23 (11) Day activity programs;
- 24 (12) Supported living;
- 25 (13) Referral to appropriate services;
- 26 (14) Transportation;
- 27 (15) Supported work]

28 **, if provided by the department, shall be directed toward**
29 **preparation for education or vocational achievement, independent living, and community**
30 **participation. Long-term needs shall be identified and efforts made to link participants**
31 **with appropriate resources.**

32 3. In securing the comprehensive program of services, the [division] **department** shall
33 involve the [patient] **participant**, his **or her** family or his **or her** legal guardian in decisions
affecting his **or her** care, rehabilitation, services or referral. The quality of the services being

34 equal, appropriate and consistent with professional advice, services shall be offered in the least
35 restrictive environment and as close to an individual's home community as possible.

36 **4. In accordance with state and federal law, no service or program operated or**
37 **funded by the department shall deny admission or other services to any person because of**
38 **the person's race, sex, creed, marital status, national origin, handicap, or age.**

304.028. 1. There is hereby created in the state treasury for use by the [Missouri Head
2 Injury Advisory Council] **department of health and senior services** a fund to be known as the
3 "[Head] **Brain** Injury Fund". All judgments collected pursuant to this section, federal grants,
4 private donations and any other moneys designated for the [head] **brain** injury fund shall be
5 deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general
6 assembly to the [office of administration] **department of health and senior services**, be
7 received and expended by the [council] **department** for the purpose of transition and integration
8 of medical, social and educational services or activities for purposes of outreach and short-term
9 supports to enable individuals with traumatic [head] **brain** injury and their families to live in the
10 community[, including counseling and mentoring the families]. Notwithstanding the provisions
11 of section 33.080, RSMo, to the contrary, any unexpended balance in the [head] **brain** injury
12 fund at the end of any biennium shall not be transferred to the general revenue fund.

13 2. In all criminal cases including violations of any county ordinance or any violation of
14 criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a
15 surcharge in the amount of two dollars. No such surcharge shall be collected in any proceeding
16 involving a violation of an ordinance or state law when the proceeding or defendant has been
17 dismissed by the court or when costs are to be paid by the state, county or municipality.

18 3. Such surcharge shall be collected and distributed by the clerk of the court as provided
19 in sections 488.010 to 488.020, RSMo. The surcharge collected pursuant to this section shall
20 be paid to the state treasury to the credit of the [head] **brain** injury fund established in this
21 section.

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