



2021 State Legislative News

produced by the

**National Association of State Head Injury
Administrators -- June 4, 2021**

Dear NASHIA Member,

Welcome to **2021 State Legislative News, June Edition**, which you receive as a NASHIA Member. This issue contains information on State legislation that has passed in States this year and also features a Medicaid initiative being planned in North Carolina. Several State legislatures are still in session with bills relating to brain injury pending. Once passed, these bills will be reported in the next edition. If you have legislation, appropriations or activities to report, please do not hesitate to contact us, as we will be happy to share. You may send to Susan Vaughn, Director of Public Policy at publicpolicy@nashia.org.

As a reminder, NASHIA is in the process of updating its 2005 "Guide to State Government Brain Injury Policies, Funding and Services." Questionnaires to update and gather information was sent to most States in December 2020. We are still waiting for information from many of those States. If you have not received a request for information or have any questions with regard to this project, please contact Susan.

The Guide will contain a description of each State's service delivery and initiatives -- the *only* document to capture comprehensive State and federal policies, funding, and programs addressing the rehabilitative and service needs of individuals with brain injury and their families within and across States. Once completed, this valuable resource will be available to States and our national and federal partners.

Legislative Roundup . . .

Corrections and Courts . . .

Creates Brain Injury Pilot Project

On June 1, 2021, **Colorado** lawmakers passed **S.B. 138**, which permits, subject to available appropriations, the Department of Corrections to create a brain injury pilot program to determine whether a comprehensive brain injury program within the department improves outcomes for offenders. The bill creates in the Department of Human Services the Brain Injury Support in the Criminal Justice System Task Force to develop a plan to integrate into the criminal justice system a model to identify and support individuals with a brain injury who are in the criminal justice system.

Education Cont. . .

Use of Student Restraints

On April 30, 2021, **Arkansas** Governor Asa Hutchinson signed **H.B. 1610**, concerning the use of student restraints in public schools or educational settings with regard to students who display challenging behavior. In accordance with the legislation, schools may provide: (1) training to school personnel on the use of an array of positive behavior interventions, strategies, and supports to increase appropriate student behavior and decrease inappropriate or dangerous student behavior; (2) annual training on responding to a student in behavioral crisis and preventing a behavioral crisis; and (3)

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Jails to Screen for TBI

On May 21, 2021, **Colorado** lawmakers sent **H.B. 1211** to the Governor, which, if signed, would prohibit a local jail with a bed capacity of over 400 beds from involuntarily placing an individual in restrictive housing if the individual meets certain conditions, including a neurocognitive impairment as the result of dementia or a traumatic brain injury (TBI). The legislation also directs local jails to use an adequate screening tool to complete a health screening, which would include screening for serious neurocognitive issues such as past TBI or dementia, upon arrival at the facility, and to report specified data quarterly to the Division of Criminal Justice, including inmates with TBI.

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Education for Inmates with TBI

On May 10, 2021, **Washington** Governor Jay Inslee signed **H.B. 1044** creating "prison to postsecondary education pathways." The law requires the Department of Corrections to establish a process for identifying and assessing incarcerated individuals with learning disabilities, traumatic brain injuries, and other cognitive impairments to determine whether the person requires accommodations in order to effectively participate in educational programming, including general educational development tests and postsecondary education. The law is effective July 25, 2021.

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Expands Veterans Treatment Court Programs

On March 29, 2021, **Florida** Governor Ron DeSantis signed **H.B. 7023** to standardize veterans treatment court programs and expand the program to include victims of military sexual trauma. The veterans treatment court programs were created by the legislature in 2012 and are open to servicemembers, current or former U.S. Department of Defense contractors, and individuals who are current or former military members of a foreign allied country who are charged or convicted of a criminal offense. Participants must be suffering from a military-related mental illness, traumatic brain injury, substance use disorder, or a psychological problem. The purpose is to address the underlying causes of a veteran's involvement with the judicial system through the use of specialized dockets, multidisciplinary teams, and evidence-based treatment.

training for school personnel who are selected to participate in a core team that is designated to respond to crisis and emergency situations that may require the physical restraint of a student.

Prevention . . .

Requires Helmets for Mopeds

On April 29, 2021, **Hawaii** lawmakers sent **S.B. 615** to Governor David Yutaka Ige for his signature to require all moped and motor scooter rental companies to ensure that mopeds and motor scooters are equipped with flags and that riders wear safety helmets. This bill came about due to a tourist who rented a motor scooter in Maui in August 2017, and suffered a fatal accident when the rented moped she was riding collided with a truck while she was not wearing a helmet. The law is named after her and may be cited as "Lexi's Law".

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Athletic Program Training to Include CPR

On April 30, 2021, **Tennessee** Governor Bill Lee signed **H.B. 1410**, to enact the Safe Stars Act to establish and revise various safety and health requirements for school youth athletic activities conducted by local education agencies (LEAs), charter schools and community-based youth athletic activities. The legislation requires biennial completion by all directors of youth athletic activity, coaches, whether employed or a volunteer, and, if appointed, the licensed healthcare professional of a concussion recognition and head injury safety education course program. In addition to training on concussions, the bill requires training on sudden cardiac arrest education program approved by the education department and training in cardiopulmonary resuscitation (CPR) and in the use of automated external defibrillators (AEDs) beginning with the 2022-2023 school year.

The Safe Stars program is a collaboration between the Tennessee Department of Health and the Program for Injury Prevention in Youth Sports at The Monroe Carell Jr. Children's Hospital at Vanderbilt.

Service Delivery Related . . .

Creates an Advisory Council and Registry

On May 25, 2021, **Oklahoma** lawmakers passed **H.B. 1010**, establishing an advisory council and a registry. The bill has been sent to Governor

Education Related . . .

Reporting Incidence of Concussions

On March 17, 2021, **Maine** Governor Janet Mills signed H.P. 70 -- L.D. 104, requiring the Department of Education to report on the incidence of concussions due to sports-related injuries. The commissioner, in consultation with an organization representing school principals, shall report no later than January 31, 2022, and annually thereafter to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs on any available data on the incidence of concussions sustained by student athletes and recommendations on best practices for the collection of such data.

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Injured Student Athletes and Scholarships

On May 18, 2021, **Maryland** Governor Larry Hogan signed H.B. 125, regarding the educational needs and the health and safety of student athletes in higher education who are injured. The legislation requires public 4-year institutions of higher education with athletic programs to provide a student athlete with scholarships for academics, athletics, or both, for a certain number of years or until the student athlete completes an undergraduate degree, whichever occurs first. The legislation requires an athletic program to renew the athletic scholarship, if a student athlete suffers an incapacitating injury or illness under certain circumstances.

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Expands TBI Definition for Special Education

On March 18, 2021, **Virginia** Governor Ralph Northam signed H.B. 2182, requiring the Board of Education to amend its regulatory definition of traumatic brain injury for provision of special education and related services to include students with an acquired injury to the brain caused by a medical condition, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments.

John Kevin Stitt for his signature. The bill creates the Advisory Council on Traumatic Brain Injury and provides for membership, appointment and terms, selection of officers, quorum requirement, and travel reimbursement. Duties and responsibilities include the submission of an annual report on the needs of persons with brain injuries and family members of persons with brain injuries and to recommend policies and practices to meet those needs.

The council is established within the State Department of Health until December 31, 2027. The legislation also requires the State Department of Health to establish and maintain a central registry of persons who die or are hospitalized from traumatic brain injuries. The department is to provide data from the registry to the council annually.

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Expands TBI Age for Behavioral Health

On March 18, 2021, **Virginia** Governor Ralph Northam signed S.B. 1421 to eliminate the requirement that an injury occur before the age of 65 to constitute a brain injury as that term is used in the context of licensure of private providers of behavioral health services. Provider is defined as any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to individuals with mental illness, developmental disabilities, or substance abuse or (ii) residential services for persons with brain injury. The person, entity, or organization shall include a hospital as defined in §32.1-123, community services board, behavioral health authority, private provider, and any other similar or related person, entity, or organization.

It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing requirements.

On February 25, Governor Northam signed an identical bill, H.B. 1873.

North Carolina to Include Persons with TBI in 1115 SUD Waiver

The **North Carolina** Department of Health and Human Services' Division of Mental Health, Developmental Disabilities and Substance Abuse Services (NC DHHS, DMH/DD/SA) is expanding its treatment of substance abuse disorders (SUD) by pursuing a Medicaid Section 1115 demonstration waiver to: (1) expand its SUD benefits to offer the complete American Society of Addiction Medicine

(ASAM) continuum of SUD services; (2) obtain a waiver of the Medicaid institution for mental diseases (IMD) exclusion for SUD services; (3) ensure that providers and services meet evidence-based program and licensure standards; (4) build SUD provider capacity; (5) strengthen care coordination and care management for individuals with SUDs; and (6) improve North Carolina's prescription drug monitoring program (PDMP).

As the waiver is to include individuals with TBI and SUD, the NC TBI program plays an active role in the waiver planning committee. The committee has engaged in consultative meetings with Brookhaven Hospital in Tulsa, Oklahoma to assist with the project, as well has received helpful information on entrance criteria, program requirements, regulations and staffing from several other States that have similar programs. Additionally, a series of stakeholder meetings will commence in the near future to obtain input on various aspects of the waiver with particular emphasis on ASAM 3.3, the residential component of the Waiver, which is being designed specifically for individuals with TBI.

The 1115 SUD Waiver is currently projected to begin July 2022. For further information, contact Scott Pokorny, MSW, CBIS, TBI Team Lead, DMH/DD/SA at Scott.Pokorny@dhhs.nc.gov.

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www.nashia.org



The National Association of State Head Injury Administrators assists State government in promoting partnerships and building systems to meet the needs of individuals with brain injuries and their families.