



**NATIONAL ASSOCIATION
OF STATE HEAD INJURY
ADMINISTRATORS**

Traumatic Brain Injury (TBI) Act: U.S. Code 42 – The Public Health and Welfare

Federal statutes governing TBI programs administered by the Centers for Disease Control and Prevention (CDC) and the Administration for Community Living (ACL)

Overview

The Traumatic Brain Injury (TBI) Program Reauthorization Act of 2018 (Pub. Law 115-377) reauthorized programs initially established by the TBI Act of 1996, which was passed and signed into law by President Bill Clinton on July 29, 1996 (Pub. Law 104-166). The law authorizes funding for programs to conduct expanded studies and to establish innovative programs to assist individuals with TBI and their families seeking services and assistance. These programs are carried out by the U.S. Department of Health and Human Services' (HHS) Administration for Community Living (ACL); the Centers for Disease Control and Prevention's (CDC) National Center on Injury Prevention and Control; and the National Institutes of Health (NIH). The law is the only federal law specifically designed to assist with the provision of services and supports for individuals with TBI.

The law directs the CDC to reduce the incidence of TBI, as well as to conduct public information and awareness programs; and to assist States in improving data collection for purposes of surveillance and linking individuals to services. The law also authorizes funding to the ACL to assist States in improving access to service delivery and for grants to state Protection & Advocacy agencies to extend their services to individuals with TBI. The 2018 Reauthorization designated the ACL as the administering agency for the State grant and the P&A grant programs. Congress also authorized an additional \$5 million for the CDC in accordance with §280b–1d (c) to implement a data collection and analysis system to determine the prevalence and incidence of concussion, subject to appropriations.

Other reauthorizing legislation include the Children's Health Act of 2000, referred to as the Traumatic Brain Injury Amendments of 2000 (Pub. L. 106-310); the Traumatic Brain Injury Reauthorization Act of 2008 (Pub. L. 110-206); and the Traumatic Brain Injury Reauthorization Act of 2014 (Pub. L. 113-196).

U.S. Code 42 – The Public Health and Welfare

§280b–1c - Prevention of traumatic brain injury

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be

carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

(b) Certain activities

Activities under subsection (a) may include —

(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury;

(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury; and

(3) the implementation of a national education and awareness campaign regarding such injury (in conjunction with the program of the Secretary regarding health-status goals for 2020, commonly referred to as Healthy People 2020), including—

(A) the national dissemination of information on —

(i) incidence and prevalence; and

(ii) information relating to traumatic brain injury and the sequelae of secondary conditions arising from traumatic brain injury upon discharge from hospitals and emergency departments; and

(B) the provision of information in primary care settings, including emergency rooms and trauma centers, concerning the availability of State level services and resources.

(c) Coordination of activities

The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

(d) “Traumatic brain injury” defined

For purposes of this section, the term “traumatic brain injury” means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma. The Secretary may revise the definition of such term as the Secretary determines necessary, after consultation with States and other appropriate public or nonprofit private entities.

CODIFICATION

Section was formerly classified to section 280b–1b of this title.

PRIOR PROVISIONS

Prior sections 393B of act July 1, 1944, were renumbered sections 393A and 393C and are classified to sections 280b–1b and 280b–1d, respectively, of this title.

AMENDMENTS

2014-Subsec. (b)(3). Pub. L. 113–196 substituted "2020, commonly referred to as Healthy People 2020" for "2010, commonly referred to as Healthy People 2010" in introductory provisions.

2008-Subsec. (b)(3)(A)(ii). Pub. L. 110–206, §3(a), substituted "from hospitals and emergency departments" for "from hospitals and trauma centers".

2000-Subsec. (b)(3). Pub. L. 106–310, §1301(a)(1), added par. (3).

Subsec. (d). Pub. L. 106–310, §1301(a)(2), substituted "anoxia due to trauma" for "anoxia due to near drowning" and inserted ", after consultation with States and other appropriate public or nonprofit private entities" after "Secretary determines necessary".

§280b–1d - National program for traumatic brain injury surveillance and registries

(a) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States or their designees to develop or operate the State's traumatic brain injury surveillance system or registry to determine the incidence and prevalence of traumatic brain injury and related disability, to ensure the uniformity of reporting under such system or registry, to link individuals with traumatic brain injury to services and supports, and to link such individuals with academic institutions to conduct applied research that will support the development of such surveillance systems and registries as may be necessary. A surveillance system or registry under this section shall provide for the collection of data concerning—

- (1) demographic information about each traumatic brain injury;
- (2) information about the circumstances surrounding the injury event associated with each traumatic brain injury;
- (3) administrative information about the source of the collected information, dates of hospitalization and treatment, and the date of injury; and
- (4) information characterizing the clinical aspects of the traumatic brain injury, including the severity of the injury, outcomes of the injury, the types of treatments received, and the types of services utilized.

(b) Report

Not later than 18 months after April 28, 2008, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health and in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall submit to the relevant committees of Congress a report that contains the findings derived from an evaluation concerning activities and procedures that can be implemented by the Centers for Disease Control and Prevention to improve the collection and dissemination of compatible epidemiological studies on the incidence and prevalence of traumatic brain injury in individuals who were formerly in the military. The report shall include recommendations on the manner in which such agencies can further collaborate on the development and improvement of traumatic brain injury diagnostic tools and treatments.

(c) National concussion data collection and analysis

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may implement concussion data collection and analysis to determine the prevalence and incidence of concussion.

(July 1, 1944, ch. 373, title III, § 393C, formerly § 393B, as added Pub. L. 106–310, div. A, title XIII, § 1301(b), Oct. 17, 2000, 114 Stat. 1137; renumbered § 393C and amended Pub. L. 110–206, §§ 2(3), 3(b), (c), Apr. 28, 2008, 122 Stat. 714, 715; Pub. L. 115–377, § 2(1), Dec. 21, 2018, 132 Stat. 5114.)

§280b-1e - Study on traumatic brain injury

a) Study

The Secretary, acting through the Director of the Centers for Disease Control and Prevention with respect to paragraph (1) and in consultation with the Director of the National Institutes of Health and other appropriate entities with respect to paragraphs (2), (3), and (4), may conduct a study with respect to traumatic brain injury for the purpose of carrying out the following:

(1) In collaboration with appropriate State and local health-related agencies--

(A) determining the incidence of traumatic brain injury and prevalence of traumatic brain injury related disability and the clinical aspects of the disability in all age groups and racial and ethnic minority groups in the general population of the United States, including institutional settings, such as nursing homes, correctional facilities, psychiatric hospitals, child care facilities, and residential institutes for people with developmental disabilities; and

(B) reporting national trends in traumatic brain injury.

(2) Identifying common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and, subject to the availability of information, including an analysis of—

(A) the effectiveness of each such intervention in improving the functioning, including return to work or school and community participation, of individuals with brain injuries;

(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(3) Identifying interventions and therapies that can prevent or remediate the development of secondary neurologic conditions related to traumatic brain injury.

(4) Developing practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(b) Dates certain for reports

If the study is conducted under subsection (a), the Secretary shall, not later than 3 years after April 28, 2008, submit to Congress a report describing findings made as a result of carrying out such subsection (a).

(c) Definition

For purposes of this section, the term “traumatic brain injury” means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma including near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(July 1, 1944, ch. 373, title III, § 393C–1, as added Pub. L. 110–206, § 4, Apr. 28, 2008, 122 Stat. 715.)

Traumatic Brain Injury Study; Consensus Conference

Pub. L. 104–166, § 4, July 29, 1996, 110 Stat. 1448, as amended by Pub. L. 106–310, div. A, title XIII, § 1302, Oct. 17, 2000, 114 Stat. 1138, required the Secretary of Health and Human Services to conduct a study of traumatic brain injuries, to submit a report to Congress within 18 months of July 29, 1996 on the findings of such study and a report within 3 years of that date on certain therapeutic interventions and guidelines developed in the study, and to conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

§280b–1e. Repealed. Pub. L. 115–377, §2(3), Dec. 21, 2018, 132 Stat. 5114

Section, July 1, 1944, ch. 373, title III, §393C–1, as added Pub. L. 110–206, §4, Apr. 28, 2008, 122 Stat. 715, provided that the Secretary, acting with appropriate health officials, could conduct a study on traumatic brain injury.

§ 280b–3. Authorization of appropriations

(a) In general

For the purpose of carrying out this part, there are authorized to be appropriated \$50,000,000 for fiscal year 1994, such sums as may be necessary for each of the fiscal years 1995 through 1998, and such sums as may be necessary for each of the fiscal years 2001 through 2005.

(b) Traumatic brain injury

To carry out sections 280b–1c and 280b–1d of this title, there are authorized to be appropriated \$11,750,000 for each of fiscal years 2020 through 2024.

(July 1, 1944, ch. 373, title III, § 394A, formerly § 394, as added Pub. L. 99–649, § 3, Nov. 10, 1986, 100 Stat. 3634; amended Pub. L. 101–558, § 2(d), Nov. 15, 1990, 104 Stat. 2773; renumbered § 394A and amended Pub. L. 103–183, title II, §§ 201(1), 204, Dec. 14, 1993, 107 Stat. 2231, 2233; Pub. L. 106–310, div. A, title XIII, § 1306, Oct. 17, 2000, 114 Stat. 1143; Pub. L. 113–196, § 2(b), Nov. 26, 2014, 128 Stat. 2052; Pub. L. 115–377, § 2(2), Dec. 21, 2018, 132 Stat. 5114.)

§300d–52. State grants for projects regarding traumatic brain injury

(a) In general

The Secretary, acting through the Administrator for the Administration for Community Living, may make grants to States and American Indian consortia for the purpose of carrying out projects to improve access to rehabilitation and other services regarding traumatic brain injury.

(b) State advisory board

(1) In general

The Secretary may make a grant under subsection (a) only if the State or American Indian consortium involved agrees to establish an advisory board within the appropriate health department of the State or American Indian consortium or within another department as designated by the chief executive officer of the State or American Indian consortium.

(2) Functions

An advisory board established under paragraph (1) shall advise and make recommendations to the State or American Indian consortium on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs. In developing recommendations under this paragraph, such boards shall consult with Federal, State, and local governmental agencies and with citizens groups and other private entities.

(3) Composition

An advisory board established under paragraph (1) shall be composed of—

(A) representatives of—

- (i) the corresponding State or American Indian consortium agencies involved;
 - (ii) public and nonprofit private health related organizations;
 - (iii) other disability advisory or planning groups within the State or American Indian consortium;
 - (iv) members of an organization or foundation representing individuals with traumatic brain injury in that State or American Indian consortium; and
 - (v) injury control programs at the State or local level if such programs exist; and
- (B) a substantial number of individuals with traumatic brain injury, or the family members of such individuals.

(c) Matching funds

(1) In general

With respect to the costs to be incurred by a State or American Indian consortium in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State or American Indian consortium agrees to make available non-Federal contributions toward such costs in an amount that is not less than \$1 for each \$2 of Federal funds provided under the grant.

(2) Determination of amount contributed

Non-Federal contributions under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such contributions.

(d) Application for grant

The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) Use of State and American Indian consortium grants

(1) Community services and supports

A State or American Indian consortium shall (directly or through awards of contracts to nonprofit private entities) use amounts received under a grant under this section for the following:

(A) To develop, change, or enhance community-based service delivery systems that include timely access to comprehensive appropriate services and supports. Such service and supports—

(i) shall promote full participation by individuals with traumatic brain injury and their families in decision making regarding the services and supports; and

(ii) shall be designed for children, youth, and adults with traumatic brain injury.

(B) To focus on outreach to underserved and inappropriately served individuals, such as individuals in institutional settings, individuals with low socioeconomic resources, individuals in rural communities, and individuals in culturally and linguistically diverse communities.

(C) To award contracts to nonprofit entities for consumer or family service access training, consumer support, peer mentoring, and parent to parent programs.

(D) To develop individual and family service coordination or case management systems.

(E) To support other needs identified by the advisory board under subsection (b) for the State or American Indian consortium involved.

(2) Best practices

(A) In general

State or American Indian consortium services and supports provided under a grant under this section shall reflect the best practices in the field of traumatic brain injury, shall be in compliance with title II of the Americans with Disabilities Act of 1990 [42 U.S.C. 12131 et seq.], and shall be supported by quality assurance measures as well as state-of-the-art health care and integrated community supports, regardless of the severity of injury.

(B) Demonstration by State agency

The State or American Indian consortium agency responsible for administering amounts received under a grant under this section shall demonstrate that it has obtained knowledge and expertise of traumatic brain injury and the unique needs associated with traumatic brain injury.

(3) State capacity building

A State or American Indian consortium may use amounts received under a grant under this section to—

(A) educate consumers and families;

(B) train professionals in public and private sector financing (such as third party payers, State agencies, community-based providers, schools, and educators);

(C) develop or improve case management or service coordination systems;

(D) develop best practices in areas such as family or consumer support, return to work, housing or supportive living personal assistance services, assistive technology and devices, behavioral health services, substance abuse services, and traumatic brain injury treatment and rehabilitation;

(E) tailor existing State or American Indian consortium systems to provide accommodations to the needs of individuals with traumatic brain injury (including systems administered by the State or American Indian consortium departments responsible for health, mental health, labor/employment, education, intellectual disabilities or developmental disorders, transportation, and correctional systems);

(F) improve data sets coordinated across systems and other needs identified by a State or American Indian consortium plan supported by its advisory council; and

(G) develop capacity within targeted communities.

(f) Coordination of activities

The Secretary shall ensure that activities under this section are coordinated as appropriate with other Federal agencies that carry out activities regarding traumatic brain injury.

(g) Report

Not less than biennially, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the findings and results of the programs established under this section and section 300d–53 of this title, including measures of outcomes and consumer and surrogate satisfaction.

(h) Definitions

For purposes of this section:

(1) The terms “American Indian consortium” and “State” have the meanings given to those terms in section 300d–53 of this title.

(2) The term “traumatic brain injury” means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma. The Secretary may revise the definition of such term as the Secretary determines necessary, after consultation with States and other appropriate public or nonprofit private entities.

(i) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated \$7,321,000 for each of fiscal years 2020 through 2024.

(July 1, 1944, ch. 373, title XII, § 1252, as added Pub. L. 104–166, § 3, July 29, 1996, 110 Stat. 1446; amended Pub. L. 106–310, div. A, title XIII, § 1304, Oct. 17, 2000, 114 Stat. 1139; Pub. L. 110–23, § 14, May 3, 2007, 121 Stat. 99; Pub. L. 110–206, § 6(a), Apr. 28, 2008, 122 Stat. 716; Pub. L. 111–256, § 2(f)(6), Oct. 5, 2010, 124 Stat. 2644; Pub. L. 113–196, § 3, Nov. 26, 2014, 128 Stat. 2052; Pub. L. 115–377, § 3, Dec. 21, 2018, 132 Stat. 5114.)

§ 300d–53 - State grants for protection and advocacy services

(a) In general

The Secretary, acting through the Administrator for the Administration for Community Living, shall make grants to protection and advocacy systems for the purpose of enabling such systems to provide services to individuals with traumatic brain injury.

(b) Services provided

Services provided under this section may include the provision of—

- (1) information, referrals, and advice;
- (2) individual and family advocacy;
- (3) legal representation; and
- (4) specific assistance in self-advocacy.

(c) Application

To be eligible to receive a grant under this section, a protection and advocacy system shall submit an application to the Secretary at such time, in such form and manner, and accompanied by such information and assurances as the Secretary may require.

(d) Appropriations less than \$2,700,000

(1) In general

With respect to any fiscal year in which the amount appropriated under subsection (l) to carry out this section is less than \$2,700,000, the Secretary shall make grants from such amount to individual protection and advocacy systems within States to enable such systems to plan for, develop outreach strategies for, and carry out services authorized under this section for individuals with traumatic brain injury.

(2) Amount

The amount of each grant provided under paragraph (1) shall be determined as set forth in paragraphs (2) and (3) of subsection (e).

(e) Appropriations of \$2,700,000 or more

(1) Population basis

Except as provided in paragraph (2), with respect to each fiscal year in which the amount appropriated under subsection (l) to carry out this section is \$2,700,000 or more, the Secretary shall make a grant to a protection and advocacy system within each State.

(2) Amount

The amount of a grant provided to a system under paragraph (1) shall be equal to an amount bearing the same ratio to the total amount appropriated for the fiscal year involved under subsection (l) as the population of the State in which the grantee is located bears to the population of all States.

(3) Minimums Subject to the availability of appropriations, the amount of a grant [1] a protection and advocacy system under paragraph (1) for a fiscal year shall—

(A) in the case of a protection and advocacy system located in American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and the

protection and advocacy system serving the American Indian consortium, not be less than \$20,000; and

(B) in the case of a protection and advocacy system in a State not described in subparagraph (A), not be less than \$50,000.

(4) Inflation adjustment

For each fiscal year in which the total amount appropriated under subsection (l) to carry out this section is \$5,000,000 or more, and such appropriated amount exceeds the total amount appropriated to carry out this section in the preceding fiscal year, the Secretary shall increase each of the minimum grants amount described in subparagraphs (A) and (B) of paragraph (3) by a percentage equal to the percentage increase in the total amount appropriated under subsection (l) to carry out this section between the preceding fiscal year and the fiscal year involved.

(f) Carryover

Any amount paid to a protection and advocacy system that serves a State or the American Indian consortium for a fiscal year under this section that remains unobligated at the end of such fiscal year shall remain available to such system for obligation during the next fiscal year for the purposes for which such amount was originally provided.

(g) Direct payment

Notwithstanding any other provision of law, each fiscal year not later than October 1, the Secretary shall pay directly to any protection and advocacy system that complies with the provisions of this section, the total amount of the grant for such system, unless the system provides otherwise for such payment.

(h) Reporting

(1) Reports by systems

Each protection and advocacy system that receives a payment under this section shall submit an annual report to the Secretary concerning the services provided to individuals with traumatic brain injury by such system.

(2) Report by Secretary

Not later than 1 year after November 26, 2014, the Secretary shall prepare and submit to the appropriate committees of Congress a report describing the services and activities carried out under this section during the period for which the report is being prepared.

(i) Data collection

The Secretary shall facilitate agreements to coordinate the collection of data by agencies within the Department of Health and Human Services regarding protection and advocacy services.

(j) Training and technical assistance

(1) Grants

For any fiscal year for which the amount appropriated to carry out this section is \$6,000,000 or greater, the Secretary shall use 2 percent of such amount to make a grant to an eligible

national association for providing for training and technical assistance to protection and advocacy systems.

(2) Definition

In this subsection, the term “eligible national association” means a national association with demonstrated experience in providing training and technical assistance to protection and advocacy systems.

(k) System authority

In providing services under this section, a protection and advocacy system shall have the same authorities, including access to records, as such system would have for purposes of providing services under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(l) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$4,000,000 for each of fiscal years 2020 through 2024.

(m) Definitions In this section:

(1) American Indian consortium

The term “American Indian consortium” means a consortium established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(2) Protection and advocacy system

The term “protection and advocacy system” means a protection and advocacy system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(3) State

The term “State”, unless otherwise specified, means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(July 1, 1944, ch. 373, title XII, § 1253, as added Pub. L. 106–310, div. A, title XIII, § 1305, Oct. 17, 2000, 114 Stat. 1141; amended Pub. L. 110–206, § 6(b), Apr. 28, 2008, 122 Stat. 717; Pub. L. 113–196, § 4, Nov. 26, 2014, 128 Stat. 2053; Pub. L. 115–377, § 4, Dec. 21, 2018, 132 Stat. 5114.)

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