

By: Griggs

H.B. No. 2019

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a state advisory council with authority to promote research, education, treatment, and support activities related to persons with traumatic brain injuries.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 92.001-92.011, Health and Safety Code, are designated as Subchapter A of Chapter 92, Health and Safety Code, and a subchapter heading for Subchapter A is added to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 92, Health and Safety Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. TEXAS TRAUMATIC BRAIN INJURY ADVISORY COUNCIL

Sec. 92.051. DEFINITIONS. In this subchapter:

(1) "Traumatic brain injury support group" means a local, state, or national organization that:

(A) is established to provide support services to aid persons with a traumatic brain injury and their primary family caregivers;

(B) encourages research into the cause, prevention, and treatment of traumatic brain injury and care of persons with a traumatic brain injury; and

(C) is dedicated to the development of essential services for persons with a traumatic brain injury and their

1 primary family caregivers.

2 (2) "Council" means the Texas Traumatic Brain Injury  
3 Advisory Council.

4 (3) "Primary family caregiver" means an individual who  
5 is a relative of a person with a traumatic brain injury who has or  
6 has had a major responsibility for the care and supervision of the  
7 person with a traumatic brain injury and who is not a professional  
8 health care provider paid to care for the person with a traumatic  
9 brain injury.

10 Sec. 92.052. ADVISORY COUNCIL; ASSOCIATED AGENCY. (a) The  
11 Texas Traumatic Brain Injury Advisory Council is an advisory  
12 council within the department.

13 (b) Notwithstanding Subsection (a), if, as a result of  
14 legislation enacted in the 78th Legislature, Regular Session, 2003,  
15 a state agency other than the department is designated to serve as  
16 the agency with primary responsibility in relation to persons with  
17 physical disabilities, the council is an advisory council within  
18 that state agency and a reference in this chapter to the department  
19 means that agency.

20 Sec. 92.053. MEMBERSHIP. (a) The council must be composed  
21 in accordance with federal law. Appointments to the council shall  
22 be made without regard to:

23 (1) the race, color, sex, religion, age, or national  
24 origin of the appointees; or

25 (2) the disability of the appointees, except as  
26 required by federal law.

27 (b) The council is composed of 20 members appointed as

1 follows:

2 (1) six public consumer members appointed by the  
3 commissioner of health and human services, three of whom must be  
4 individuals related to persons with a traumatic brain injury and  
5 three of whom must be persons with a brain injury;

6 (2) six professional members appointed by the  
7 commissioner of health and human services, each of whom must have  
8 special training and interest in the care, treatment, or  
9 rehabilitation of persons with a traumatic brain injury, with one  
10 representative each from:

11 (A) acute hospital trauma units;

12 (B) the National Institute for Disability  
13 Rehabilitation Research Traumatic Brain Injury Model System in this  
14 state;

15 (C) acute or post-acute rehabilitation  
16 facilities;

17 (D) community-based services;

18 (E) faculties of institutions of higher  
19 education; and

20 (F) providers in the areas of physical therapy,  
21 occupational therapy, or cognitive rehabilitation; and

22 (3) eight state agency members, with one  
23 representative from each of the following agencies appointed by the  
24 chief executive officer of the agency:

25 (A) Texas Department of Health;

26 (B) Texas Department of Human Services;

27 (C) Texas Department of Mental Health and Mental

1 Retardation;

2 (D) Texas Rehabilitation Commission;

3 (E) Health and Human Services Commission;

4 (F) Texas Education Agency;

5 (G) Texas Planning Council for Developmental  
6 Disabilities; and

7 (H) Texas Department of Insurance.

8 (c) One of the six public consumer members appointed under  
9 Subsection (b)(1) must be a member of a statewide traumatic brain  
10 injury support group.

11 Sec. 92.054. OFFICERS. (a) The members of the council  
12 annually shall elect a presiding officer and an assistant presiding  
13 officer from the council members.

14 (b) A representative of a state agency may not serve as  
15 presiding officer or assistant presiding officer.

16 (c) At least one of the officers must be a public consumer  
17 member.

18 Sec. 92.055. RESTRICTIONS ON MEMBERS. (a) In this section,  
19 "Texas trade association" means a cooperative and voluntarily  
20 joined association of business or professional competitors in this  
21 state designed to assist its members and its industry or profession  
22 in dealing with mutual business or professional problems and in  
23 promoting their common interest. The term does not include a  
24 voluntary health organization.

25 (b) A person may not be a public consumer member of the  
26 council if the person or the person's spouse:

27 (1) is employed by or participates in the management

1 of a business entity or other organization receiving money from the  
2 council;

3 (2) owns or controls, directly or indirectly, more  
4 than a 10 percent interest in a business entity or other  
5 organization receiving money from the council; or

6 (3) uses or receives a substantial amount of tangible  
7 goods, services, or money from the council, other than compensation  
8 or reimbursement authorized by law for council membership,  
9 attendance, or expenses.

10 (c) A person may not be a member of the council if the person  
11 is an officer, employee, or paid consultant of a Texas trade  
12 association in a health care field.

13 (d) A person may not be a member of the council if the person  
14 is required to register as a lobbyist under Chapter 305, Government  
15 Code, because of the person's activities for compensation on behalf  
16 of a profession related to the operation of the council.

17 (e) It is a ground for removal from the council that a  
18 member:

19 (1) does not have at the time of taking office the  
20 qualifications required by Section 92.053(b);

21 (2) does not maintain during service on the council  
22 the qualifications required by Section 92.053(b);

23 (3) is ineligible for membership under Subsection (b),  
24 (c), or (d);

25 (4) cannot, because of illness or disability,  
26 discharge the member's duties for a substantial part of the member's  
27 term; or

1           (5) is absent from more than half of the regularly  
2 scheduled council meetings that the member is eligible to attend  
3 during a calendar year without an excuse approved by a majority vote  
4 of the council.

5           (f) The validity of an action of the council is not affected  
6 by the fact that it is taken when a ground for removal of a council  
7 member exists.

8           Sec. 92.056. TERMS; VACANCY. (a) The public consumer and  
9 professional members of the council are appointed for staggered  
10 six-year terms, with the terms of four members expiring February 1  
11 of each odd-numbered year.

12           (b) In addition to other methods by which a position may  
13 become vacant, a position on the council becomes vacant if a member  
14 resigns from the council by providing written notice to the  
15 presiding officer of the council.

16           (c) If a position on the council becomes vacant, the  
17 presiding officer shall provide written notice to the appropriate  
18 appointing official requesting a new appointment to fill the  
19 remainder of the member's term.

20           (d) If a vacancy occurs, the appropriate appointing  
21 official shall appoint a person, in the same manner as the original  
22 appointment, to serve for the remainder of the unexpired term.

23           (e) A person who has served one full term on the council is  
24 not eligible for reappointment.

25           Sec. 92.057. COMPENSATION; EXPENSES. (a) Except as  
26 provided by Subsection (b), a member of the council is not entitled  
27 to compensation for service on the council and is not entitled to

1 reimbursement for travel expenses.

2 (b) A member who is a representative of a state agency shall  
3 be reimbursed for travel expenses incurred while conducting council  
4 business from the funds of the agency the person represents in  
5 accordance with the General Appropriations Act.

6 Sec. 92.058. MEETINGS. The council shall meet at least  
7 once each calendar quarter on meeting dates set by the council and  
8 at the call of the presiding officer.

9 Sec. 92.059. DUTIES OF THE COUNCIL. The council shall:

10 (1) inform state leaders of issues and policies as  
11 they relate to meeting the needs of persons with a traumatic brain  
12 injury and their primary family caregivers;

13 (2) recommend to state leaders policies and programs  
14 that more effectively serve persons with a traumatic brain injury  
15 and their families;

16 (3) assist the department to explore and promote  
17 innovative approaches to providing services and support to persons  
18 with a traumatic brain injury and their families;

19 (4) assist the department to promote education,  
20 training, and information about traumatic brain injury issues;

21 (5) advocate for persons with a traumatic brain injury  
22 and their families;

23 (6) assist the department to support activities aimed  
24 at reducing preventable brain injuries; and

25 (7) assist the department to conduct outreach to  
26 obtain public input.

27 Sec. 92.060. DUTIES OF THE DEPARTMENT. (a) The department

1 shall:

2 (1) provide administrative support services to the  
3 council;

4 (2) accept gifts and grants on behalf of the council  
5 from any public or private entity;

6 (3) receive, deposit, and disburse gifts and grants  
7 for the council in accordance with this subchapter and provide  
8 other administrative services in support of the council as  
9 requested by and negotiated with the council; and

10 (4) enter into a memorandum of understanding with the  
11 council that delineates the responsibilities of the department and  
12 the council under this subchapter and amend the memorandum as  
13 necessary to reflect changes in those responsibilities.

14 (b) The board may adopt rules as necessary to implement the  
15 department's duties under this subchapter and federal  
16 developmental disability laws.

17 Sec. 92.061. ADDITIONAL COUNCIL DUTIES. The council shall:

18 (1) make recommendations, at the request of the  
19 governor or legislative leaders, relating to activities  
20 appropriate to the achievement of legislative and executive  
21 functions relating to persons with a traumatic brain injury; and

22 (2) submit to the governor, legislature, and other  
23 appropriate state and federal authorities periodic reports on the  
24 council's responsibilities and performance.

25 Sec. 92.062. GIFTS AND GRANTS. (a) The council is  
26 encouraged to seek a gift or grant from any public or private  
27 entity.



1        (b) The health and human services commission shall deposit  
2 any money received under Subsection (a) to the credit of the Texas  
3 Traumatic Brain Injury Advisory Council account. The Texas  
4 Traumatic Brain Injury Advisory Council account is an account in  
5 the general revenue fund that may be appropriated only for the  
6 purpose of carrying out this subchapter.

7        Sec. 92.063. ADVISORY COMMITTEE STATUTE INAPPLICABLE.  
8 Chapter 2110, Government Code, does not apply to the council.

9        SECTION 3. Section 92.001(2), Health and Safety Code, is  
10 amended to read as follows:

11            (2) "Reportable injury" means an injury or condition  
12 required to be reported under this subchapter [~~chapter~~].

13        SECTION 4. Sections 92.002(b) and (d), Health and Safety  
14 Code, are amended to read as follows:

15            (b) The board may adopt rules that require other injuries to  
16 be reported under this subchapter [~~chapter~~].

17            (d) The board shall adopt rules necessary to administer this  
18 subchapter [~~chapter~~].

19        SECTION 5. Section 92.003(c), Health and Safety Code, is  
20 amended to read as follows:

21            (c) The board shall prescribe the form and method of  
22 reporting. The board may require the reports to contain any  
23 information, including the person's name, address, age, sex, race,  
24 occupation, employer, and attending physician, necessary to  
25 achieve the purposes of this subchapter [~~chapter~~].

26        SECTION 6. Sections 92.004(a), (c), and (d), Health and  
27 Safety Code, are amended to read as follows:

1 (a) The department may enter into contracts or agreements as  
2 necessary to carry out this subchapter [~~chapter~~]. The contracts  
3 or agreements may provide for payment by the state for materials,  
4 equipment, and services.

5 (c) Subject to the confidentiality provisions of this  
6 subchapter [~~chapter~~], the department shall evaluate the reports of  
7 injuries to establish the nature and magnitude of the hazards  
8 associated with those injuries, to reduce the occurrence of those  
9 risks, and to establish any trends involved.

10 (d) The department may make inspections and investigations  
11 as authorized by this subchapter [~~chapter~~] and other law.

12 SECTION 7. Section 92.005, Health and Safety Code, is  
13 amended to read as follows:

14 Sec. 92.005. ACCESS TO INFORMATION. Subject to the  
15 confidentiality provisions of this subchapter [~~chapter~~], the  
16 department may collect, or cause to be collected, medical,  
17 demographic, or epidemiologic information from any medical or  
18 laboratory record or file to help the department in the  
19 epidemiologic investigation of injuries and their causes.

20 SECTION 8. Section 92.006(b), Health and Safety Code, is  
21 amended to read as follows:

22 (b) The board shall adopt rules establishing procedures to  
23 ensure that all information and records maintained by the  
24 department under this subchapter [~~chapter~~] are kept confidential  
25 and protected from release to unauthorized persons.

26 SECTION 9. Sections 92.008(a) and (e), Health and Safety  
27 Code, are amended to read as follows:

1 (a) The board shall appoint a technical advisory committee  
2 to advise the board of injuries other than spinal cord injuries,  
3 traumatic brain injuries, and submersion injuries that should be  
4 required by rule to be reported under this subchapter [~~chapter~~].

5 (e) A member of the technical advisory committee is not  
6 entitled to reimbursement for expenses incurred in performing  
7 duties under this subchapter [~~chapter~~].

8 SECTION 10. Section 92.011, Health and Safety Code, is  
9 amended to read as follows:

10 Sec. 92.011. COORDINATION WITH TEXAS TRAUMATIC BRAIN INJURY  
11 ADVISORY COUNCIL. (a) The department and the Texas Traumatic Brain  
12 Injury Advisory Council established within the department under  
13 Subchapter B shall [~~enter into a memorandum of understanding to~~]:

14 (1) exchange relevant injury data on an ongoing basis  
15 to the extent allowed by Section 92.006;

16 (2) maintain the confidentiality of injury data  
17 provided to the council by the department in accordance with  
18 Section 92.006;

19 (3) permit the council to review and comment on the  
20 board's rules under Section 92.002(b) before the rules are  
21 proposed; and

22 (4) cooperate in conducting investigations of  
23 traumatic brain injuries.

24 (b) The department and the Texas Traumatic Brain Injury  
25 Advisory Council may enter into a memorandum of understanding to  
26 facilitate cooperation under Subsection (a).

27 SECTION 11. The changes in law made by this Act do not

1 affect the entitlement of a member serving on the Texas Traumatic  
2 Brain Injury Advisory Council immediately before the effective date  
3 of this Act to continue to carry out the member's functions for the  
4 remainder of the member's term. As soon as practicable after the  
5 effective date of this Act, the commissioner of health and human  
6 services shall develop a plan to bring the composition of the  
7 council into compliance with Section 92.53, Health and Safety Code,  
8 as added by this Act, as the service of existing members of the  
9 council terminates.

10 SECTION 12. It is the intention of the legislature that  
11 Subchapter B, Chapter 92, Health and Safety Code, as added by this  
12 Act, be interpreted and applied to reflect any changes made by the  
13 78th Legislature relating to the structure of governmental agencies  
14 providing health and human services and programs in this state. If  
15 the relevant functions or duties of any agency referenced in  
16 Subchapter B, Chapter 92, Health and Safety Code, as added by this  
17 Act, are transferred to another agency by the 78th Legislature, the  
18 reference means the agency to which the relevant functions or  
19 duties were transferred.

20 SECTION 13. This Act takes effect September 1, 2003.