

Brain Injury Association of Virginia

Virginia Alliance of Brain Injury Service Providers

2021 Legislative Needs Statement

WHAT:

*Current Code Language **modified**: § 37.2-403. Definitions. "Brain injury" is any injury to the brain that occurs after birth, ~~but before age 65~~, that is acquired through traumatic or non-traumatic insults. Non-traumatic insults may include, but are not limited to anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor and stroke. Brain injury does not include hereditary, congenital or degenerative brain disorders, or injuries induced by birth trauma.*

PATRON AND BILL NUMBER:

- Del Carrie Coyner

WHY:

- This definition was created many years ago, when BIAV, DMAS and DBHDS were pursuing a CMS HCBS Brain Injury Waiver.
- The “before age 65” language was included to scale the size of possible waiver applicants, as other forms of in-home assistance are available through Medicaid and Medicare for those older than 65.
- This is the only definition of brain injury that occurs in state code, and it should reflect current realities.
- With no brain injury waiver on the horizon, there is no downside to correcting the language. Should the possibility of a brain injury waiver ever arise again, there are other ways to limit the eligible population without using an inaccurate definition of brain injury.
- Falls have overtaken motor vehicles accident as the primary cause of brain injury and the leading group to experience a fall is those older than 65. During 2017, national rates of fall-related TBI death were highest among persons aged ≥75 years (CDC, 2020)