

The Senate Insurance and Labor Committee offered the following substitute to SB 161:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 33-24-59.10 of the Official Code of Georgia Annotated, relating to  
2 insurance coverage for autism, so as to require certain insurance coverage of autism spectrum  
3 disorders; to provide a short title; to provide for definitions; to provide for related matters;  
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

6 This Act shall be known and may be cited as "Ava's Law."  
7

**SECTION 2.**

8 Code Section 33-24-59.10 of the Official Code of Georgia Annotated, relating to insurance  
9 coverage for autism, is amended by revising said Code section as follows:  
10

11 "33-24-59.10.

12 (a) As used in this Code section, the term:

13 (1) 'Accident and sickness contract, policy, or benefit plan' shall have the same meaning  
14 as found in Code Section 33-24-59.1. Accident and sickness contract, policy, or benefit  
15 plan shall ~~also not include without limitation~~ any health benefit plan established pursuant  
16 to Article 1 of Chapter 18 of Title 45. Accident and sickness contract, policy, or benefit  
17 plan shall not include limited benefit insurance policies designed, advertised, and  
18 marketed to supplement major medical insurance such as accident only, CHAMPUS  
19 supplement, dental, disability income, fixed indemnity, long-term care, medicare  
20 supplement, specified disease, vision, and any other type of accident and sickness  
21 insurance other than basic hospital expense, basic medical-surgical expense, or major  
22 medical insurance. Accident and sickness contract, policy, or benefit plan shall not  
23 include medical assistance or health care benefits provided pursuant to Article 7 of  
24 Chapter 4 of Title 49 or Article 13 of Chapter 5 of Title 49.

25 (2) 'Applied behavior analysis' means the design, implementation, and evaluation of  
26 environmental modifications, using behavioral stimuli and consequences, to produce  
27 socially significant improvement in human behavior, including the use of direct  
28 observation, measurement, and functional analysis of the relationship between  
29 environment and behavior.

30 ~~(2)(3) 'Autism spectrum disorder' means a developmental neurological neurobiological~~  
31 ~~disorder, usually appearing in the first three years of life, which affects normal brain~~  
32 ~~functions and is manifested by compulsive, ritualistic behavior and severely impaired~~  
33 ~~social interaction and communication skills~~ qualitative impairment in social interaction,  
34 qualitative impairment in communication, and restricted repetitive and stereotyped  
35 patterns of behavior, interests, and activities. Autism spectrum disorder includes autistic  
36 disorder, Asperger's disorder, Rett's disorder, childhood disintegrative disorder, and  
37 'pervasive developmental disorder not otherwise specified' as defined in the Diagnostic  
38 and Statistical Manual of Mental Disorders of the American Psychiatric Association.

39 (4) 'Generally accepted standards of medical practice' means standards that are based on:

40 (A) Credible scientific evidence published in peer-reviewed medical literature  
41 generally recognized by the relevant medical community;

42 (B) Physician and health care provider specialty society recommendations;

43 (C) Views of physicians and health care providers practicing in relevant clinical areas;

44 or

45 (D) Any other relevant factors.

46 (5) 'Habilitative and rehabilitative care' means behavioral intervention and management  
47 services, including counseling, guidance services, and treatment programs including  
48 applied behavior analysis and other structured behavioral programs provided by a  
49 licensed psychiatrist, licensed psychologist, licensed clinical social worker, licensed  
50 behavioral therapist, certified behavioral analyst, or other qualified professional as  
51 prescribed by a licensed physician, licensed physician's assistant, or certified nurse  
52 practitioner.

53 (6) 'Medical care' means services provided by a licensed physician, licensed physician's  
54 assistant, or certified nurse practitioner, including evaluating, testing, diagnosing, and  
55 treating autism spectrum disorders based on generally accepted standards of medical  
56 practice.

57 (7) 'Medically necessary' means health care services that a physician, exercising prudent  
58 clinical judgment, would provide to a patient for the purpose of preventing, evaluating,  
59 diagnosing, or treating an illness, injury, disease, or its symptoms that are:

60 (A) In accordance with generally accepted standards of medical practice;

61 (B) Clinically appropriate, in terms of type, frequency, extent, site, and duration, and  
62 considered effective for the patient's illness, injury, or disease; and

63 (C) Not primarily for the convenience of the patient, physician, or other health care  
64 provider and not more costly than an alternative service or sequence of services at least  
65 as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or  
66 treatment of that patient's illness, injury, or disease.

67 (8) 'Pharmacy care' means medications and nutritional supplements prescribed by a  
68 licensed physician, licensed physician's assistant, or certified nurse practitioner.

69 (9) 'Therapeutic care' means services provided by a licensed or certified speech therapist,  
70 occupational therapist, or physical therapist as prescribed by a licensed physician,  
71 licensed physician's assistant, or certified nurse practitioner.

72 (10) 'Treatment plan' means medical, therapeutic, habilitative and rehabilitative,  
73 pharmacological, or other general care deemed medically necessary and prescribed by a  
74 licensed physician, licensed physician's assistant, or certified nurse practitioner.

75 ~~(b) An insurer that provides benefits for neurological disorders, whether under a group or~~  
76 ~~individual accident and sickness contract, policy, or benefit plan, shall not deny providing~~  
77 ~~benefits in accordance with the conditions, schedule of benefits, limitations as to type and~~  
78 ~~scope of treatment authorized for neurological disorders, exclusions, cost-sharing~~  
79 ~~arrangements, or copayment requirements which exist in such contract, policy, or benefit~~  
80 ~~plan for neurological disorders because of a diagnosis of autism. The provisions of this~~  
81 ~~subsection shall not expand the type or scope of treatment beyond that authorized for any~~  
82 ~~other diagnosed neurological disorder. An insurer shall not deny or refuse to issue~~  
83 ~~coverage on, contract with, renew, or reissue or otherwise terminate or restrict coverage~~  
84 ~~under an accident and sickness contract, policy, or benefit plan on an individual solely~~  
85 ~~because the individual is diagnosed with autism spectrum disorder, nor shall an insurer~~  
86 ~~exclude or deny coverage due to the use of medically necessary therapeutic care,~~  
87 ~~habilitative and rehabilitative care, and pharmacy care or other general care services for an~~  
88 ~~autism spectrum disorder. No service required under this subsection shall be denied on the~~  
89 ~~basis that it is habilitative in nature. Coverage required under this subsection shall not be~~  
90 ~~subject to dollar limits, deductibles, coinsurance provisions, or coverage periods that are~~  
91 ~~less favorable to an insured than the dollar limits, deductibles, coinsurance provisions, or~~  
92 ~~coverage periods that apply to physical illness generally under the health insurance plan,~~  
93 ~~except as provided in subsection (d) of this Code section.~~

94 (c) Medical care, therapeutic care, habilitative and rehabilitative care, and pharmacy care  
95 for an autism spectrum disorder shall be fully covered under an accident and sickness  
96 contract, policy, or benefit plan except as provided in subsection (d) of this Code section.  
97 Treatment plans prescribing these care services shall include all elements necessary for

98 claims payments and include, but not be limited to, a diagnosis proposed treatment by type,  
99 frequency, and duration of treatment, the anticipated outcomes stated as goals, the  
100 frequency by which treatment plans will be updated, and the treatment providers'  
101 signatures. An insurer shall have the right to request updated treatment plans once every  
102 six months to review medical necessity unless the insurer and the treatment provider agree  
103 that a more frequent review is necessary due to emerging clinical circumstances. The cost  
104 of obtaining any review shall be borne by the insurer.

105 (d) Applied behavior analysis under this Code section may be subject to a maximum  
106 benefit of \$50,000.00 per year and a maximum lifetime benefit of \$250,000.00 but shall  
107 not be subject to any limits on the number of visits or hours per visit.

108 (e) This Code section shall not be construed as affecting any obligation to provide services  
109 to an individual under an individualized family service plan, an individualized education  
110 program, or an individualized service plan.

111 (f) This Code section shall not be construed as limiting benefits that are otherwise  
112 available to an individual under an accident and sickness contract, policy, or benefit plan.

113 (g) Beginning January 1, 2010, the Commissioner shall, on an annual basis, adjust the  
114 maximum benefit as provided in subsection (d) of this Code section for inflation, which  
115 may be based on the Medical Care Component of the Consumer Price Index for All Urban  
116 Consumers (CPI-U) as published by the United States Department of Labor's Bureau of  
117 Labor Statistics. The Commissioner shall submit the adjusted maximum benefit for  
118 publication annually no later than July 1 of each calendar year, and the published adjusted  
119 maximum benefit shall be applicable in the following calendar year to health insurance  
120 policies subject to this Code section. Payments made by an insurer on behalf of a covered  
121 individual for any care, treatment, intervention, service, or item unrelated to applied  
122 behavior analysis shall not be applied towards any maximum benefit established under this  
123 subsection.

124 (h) An insurer subject to this Code section shall only be required to provide coverage to  
125 a person until he or she attains the age of 18.

126 (i) This Code section shall not apply to an accident and sickness contract, policy, or benefit  
127 plan offered by an employer to its employees if such employer has 25 or fewer employees."

128 **SECTION 3.**

129 All laws and parts of laws in conflict with this Act are repealed.