

House Bill 1166 (AS PASSED HOUSE AND SENATE)

By: Representatives Atwood of the 179th, Smith of the 131st, Meadows of the 5th, Maxwell of the 17th, Williams of the 113th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide for individual health insurance coverage to children through child-only health
3 policies; to provide for legislative intent; to establish a mandatory, uniform open enrollment
4 period; to provide for definitions; to provide for guaranteed-issue coverage regardless of
5 health status; to provide for special enrollment periods for loss of coverage because of a
6 qualifying event; to provide for a list of qualifying events; to provide effective dates for
7 coverage purchased during an open enrollment period or after a qualifying event; to provide
8 notice and marketing requirements; to provide for rules and regulations; to provide for an
9 automatic repealer; to provide for related matters; to provide for an effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
14 adding a new chapter to read as follows:

15 style="text-align:center">"CHAPTER 29B

16 33-29B-1.

17 (a) It is the intention of this chapter to restore access to creditable health care coverage for
18 Georgia's children, and that in order to do so, it is important to bring insurance providers
19 into the market to offer individual health insurance coverage to children through child-only
20 policies.

21 (b) For the protection of the public, particularly children and families, and for the
22 protection of insurers required by federal law to guarantee the issue of individual health
23 policies to children who are less than 19 years of age without imposing any preexisting
24 condition exclusions, it is the intent of the General Assembly to accomplish this goal by

25 establishing that as a condition of issuing health insurance coverage in the individual
 26 market until January 1, 2014, insurers offer child-only policies during open enrollment
 27 periods specified by this chapter.

28 33-29B-2.

29 (a) As used in this chapter, the term:

30 (1) 'Child-only policy' means individual health insurance coverage for a qualified
 31 individual who is less than 19 years of age. Such term shall not include dependent health
 32 insurance for a qualified individual under another person's health insurance.

33 (2) 'Creditable coverage' means medical expense coverage under any of the following:

34 (A) Medicare or Medicaid;

35 (B) An employer based accident and sickness insurance or health benefit arrangement;

36 (C) An individual accident and sickness insurance policy, including coverage issued
 37 by a health maintenance organization, nonprofit hospital or nonprofit medical service
 38 corporation, health care corporation, or fraternal benefit society;

39 (D) A spouse's benefits or coverage under medicare or Medicaid or an employer based
 40 health insurance or health benefit arrangement;

41 (E) A conversion policy;

42 (F) A franchise policy issued on an individual basis to a member of a true association
 43 as defined in subsection (b) of Code Section 33-30-1;

44 (G) A health policy formed pursuant to 10 U.S.C. Chapter 55;

45 (H) A health policy provided through the Indian Health Service or a tribal organization
 46 program or both;

47 (I) A state health benefits risk pool;

48 (J) A health policy formed pursuant to 5 U.S.C. Chapter 89;

49 (K) A public health policy; or

50 (L) A Peace Corps Act health benefit policy.

51 (3) 'Health insurance' has the same meaning as accident and sickness policy as defined
 52 in Code Section 33-29-1. Such term shall not include:

53 (A) Any policy of workers' compensation insurance or any policy of workers'
 54 insurance or any policy of liability insurance with or without supplementary expense
 55 coverage on the policy;

56 (B) Any policy or contract of reinsurance;

57 (C) Any policy, the renewal of which is subject to continuation of employment with
 58 a specified employer, any blanket or group policy of insurance, or any policy issued
 59 pursuant to the exercise of conversion privileges provided for in group insurance
 60 policies;

61 (D) Life insurance, endowment or annuity contracts, or contracts supplemental thereto
 62 which contain only such provisions relating to accident and sickness insurance which
 63 provide additional benefits in case of death or dismemberment or loss of sight by
 64 accident, or which operate to safeguard such contracts against lapse or give a special
 65 surrender value or special benefit or an annuity in the event that the insured or annuitant
 66 becomes totally and permanently disabled as defined by the contract or supplemental
 67 contract;

68 (E) Companies, organizations, or associations provided for in Chapters 18 and 19 of
 69 this title; or

70 (F) Any policy of accident, sickness, or hospitalization insurance issued prior to
 71 January 1, 1961; long-term care, disability income, short-term, accident, dental-only,
 72 vision-only, fixed indemnity, limited-benefit, or credit insurance; coverage issued as
 73 a supplement to liability insurance; insurance arising out of workers' compensation or
 74 similar law; automobile medical payment insurance; or insurance under which benefits
 75 are payable with or without regard to fault and that is statutorily required to be
 76 contained in any liability insurance policy or equivalent self-insurance.

77 (4) 'Insurer' means an insurance company, insurance service, or insurance organization
 78 licensed to engage in the business of insurance in Georgia and which is subject to this
 79 title. Such term shall not include a group health policy.

80 (5) 'Open enrollment period' means January 1, 2013, through January 31, 2013.

81 (6) 'Qualified individual' means a resident of this state who is less than 19 years of age.

82 (7) 'Qualifying event' means the loss of employer sponsored health insurance or the
 83 involuntary loss of other existing health insurance for any reason other than fraud,
 84 misrepresentation, or failure to pay a premium if the applicant is a qualified individual
 85 when the qualifying event occurs.

86 33-29B-3.

87 (a) All insurers that deliver or issue for delivery individual health insurance in this state
 88 shall be subject to the provisions of this chapter. As a condition of issuing coverage in the
 89 individual health market, an insurer shall ensure that at least one policy design issued
 90 pursuant to Code Section 33-29A-3 and this chapter shall be available to individuals
 91 applying for a child-only policy.

92 (b) Insurers shall offer guaranteed-issue coverage to primary subscribers under the age of
 93 19 years during open enrollment periods during which insurers shall accept applications
 94 for child-only policies.

95 (c) During the open enrollment period set forth in subsection (b) of this Code section and
 96 within 30 days of a qualifying event, an insurer shall accept and grant an application to

97 insure a qualified individual for a child-only policy on a guaranteed-issue basis without any
98 limitations or exclusions of policy benefits based upon the applicant's health status pursuant
99 to federal law.

100 (d) Insurers shall not offer child-only policies outside of the open enrollment period,
101 except insurers shall permit a child under the age of 19 years to apply and enroll for
102 coverage during a special enrollment period under the terms of the health benefit policy if
103 the child has experienced a qualifying event.

104 (e) A special enrollment period shall last 30 days from the date the insurer receives notice
105 of loss of coverage if:

106 (1) Such notice is provided to the insurer no later than the sixtieth day after the loss of
107 coverage;

108 (2) The loss of other coverage results from:

109 (A) Birth;
110 (B) Adoption;
111 (C) Marriage;
112 (D) Dissolution of marriage;
113 (E) Loss of employer sponsored insurance;
114 (F) Loss of eligibility under Code Section 49-4-1 or 49-5-273;
115 (G) Entry of a valid court or administrative order mandating the child be covered; or
116 (H) Involuntary loss of other existing coverage for any reason other than fraud,
117 misrepresentation, or failure to pay premium; or

118 (3) The person under 19 years of age is not eligible for creditable coverage.

119 (f) Coverage under individual policies applied for during the open enrollment period shall
120 become effective within 30 days following the end of such period. Coverage under
121 individual policies applied for during a special enrollment period shall become effective
122 within 30 days following the end of the special enrollment period.

123 (g) Nothing in this Code section shall prohibit an insurer from setting a premium rate for
124 individuals based upon medical underwriting so long as such rate is in compliance with the
125 applicable product's rate filing on record with the department. An insurer may impose a
126 surcharge for up to 12 months if an individual enrolls in a child-only policy without prior
127 creditable coverage in the 63 day period preceding the date of application. The amount of
128 the surcharge may be up to an additional 50 percent of the premium rate that would be
129 charged if an individual enrolls in a child-only policy with prior creditable coverage in the
130 63 day period preceding the date of application.

131 33-29B-4.

132 In the event that an individual under the age of 19 years is a dependent on a policy with a
133 primary subscriber who is over the age of 19 years and such primary subscriber drops the
134 policy, all dependents shall lose coverage as a result of the termination of coverage of the
135 primary subscriber. Such individuals under the age of 19 years may apply for child-only
136 policies during the open enrollment period or, in the case of a qualifying event, during a
137 special enrollment period.

138 33-29B-5.

139 An insurance carrier may deny coverage to an applicant for enrollment in a child-only
140 policy if other creditable coverage is available. For purposes of this Code section, the term
141 'creditable coverage' shall not include eligibility for a high-risk pool insurance policy, but
142 shall include current enrollment in a high-risk pool insurance policy.

143 33-29B-6.

144 (a) Insurers currently covering subscribers or dependents under the age of 19 years on
145 individual policies shall continue to renew such policies in accordance with Code
146 Section 33-29-21.

147 (b) Notice of the open enrollment opportunity, open enrollment dates for new applicants,
148 the opportunity to enroll due to a qualifying event, and instructions on how to enroll a child
149 in a child-only policy shall be displayed continuously and prominently on the insurer's
150 website throughout the year.

151 33-29B-7.

152 Each insurer that participates in the individual market in Georgia shall submit to the
153 Commissioner the following information at the time the insurer submits the information
154 pertaining to 2013 that is required in Code Section 33-3-21:

155 (1) The number of applicants for a child-only policy during open enrollment period;

156 (2) The number of individuals who enrolled in a child-only policy during the open
157 enrollment period; and

158 (3) The number of applicants denied enrollment in a child-only policy during the open
159 enrollment period and the reasons for the denials.

160 33-29B-8.

161 (a) The Commissioner shall adopt rules to implement and administer this chapter.

162 (b) This chapter and the rules adopted by the Commissioner to administer this chapter shall
163 stand repealed on January 1, 2014."

164 **SECTION 2.**

165 This Act shall become effective on January 1, 2013.

166 **SECTION 3.**

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