

The Senate Committee on Insurance and Labor offers the following substitute to SB 1:

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 provide for certain insurance coverage of autism  
3 spectrum disorders; to provide for definitions; to provide for limitations; to provide for  
4 premium cap and other conditions; to provide for applicability; to provide for related matters;  
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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

10 "33-24-59.10.

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

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

22 (2) ~~'Autism' means a developmental neurological disorder, usually appearing in the first~~  
23 ~~three years of life, which affects normal brain functions and is manifested by compulsive,~~  
24 ~~ritualistic behavior and severely impaired social interaction and communication skills~~  
25 '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 (3) 'Autism spectrum disorder' means autism spectrum disorders as defined by the most  
 31 recent edition of the Diagnostic and Statistical Manual of Mental Disorders.

32 (4) 'Treatment of autism spectrum disorder' includes the following types of care  
 33 prescribed, provided, or ordered for an individual diagnosed with an autism spectrum  
 34 disorder:

35 (A) Habilitative or rehabilitative services, including applied behavior analysis or other  
 36 professional or counseling services necessary to develop, maintain, and restore the  
 37 functioning of an individual to the extent possible. To be eligible for coverage, applied  
 38 behavior analysis shall be provided by a person professionally certified by a national  
 39 board of behavior analysts or performed under the supervision of a person  
 40 professionally certified by a national board of behavior analysts;

41 (B) Counseling services provided by a licensed psychiatrist, licensed psychologist,  
 42 professional counselor, or clinical social worker; and

43 (C) Therapy services provided by a licensed or certified speech therapist,  
 44 speech-language pathologist, occupational therapist, physical therapist, or marriage and  
 45 family therapist.

46 ~~(b) An insurer that provides benefits for neurological disorders, whether under a group or~~  
 47 ~~individual accident and sickness contract, policy, or benefit plan, shall not deny providing~~  
 48 ~~benefits in accordance with the conditions, schedule of benefits, limitations as to type and~~  
 49 ~~scope of treatment authorized for neurological disorders, exclusions, cost-sharing~~  
 50 ~~arrangements, or copayment requirements which exist in such contract, policy, or benefit~~  
 51 ~~plan for neurological disorders because of a diagnosis of autism. The provisions of this~~  
 52 ~~subsection shall not expand the type or scope of treatment beyond that authorized for any~~  
 53 ~~other diagnosed neurological disorder. Accident and sickness contracts, policies, or benefit~~  
 54 ~~plans shall provide coverage for autism spectrum disorders for an individual covered under~~  
 55 ~~a policy or contract who is six years of age or under in accordance with the following:~~

56 (1) The policy or contract shall provide coverage for any assessments, evaluations, or  
 57 tests by a licensed physician or licensed psychologist to diagnose whether an individual  
 58 has an autism spectrum disorder;

59 (2) The policy or contract shall provide coverage for the treatment of autism spectrum  
 60 disorders when it is determined by a licensed physician or licensed psychologist that the  
 61 treatment is medically necessary health care. A licensed physician or licensed  
 62 psychologist may be required to demonstrate ongoing medical necessity for coverage  
 63 provided under this Code section at least annually;

64 (3) The policy or contract shall not include any limits on the number of visits;

65 (4) The policy or contract may limit coverage for applied behavior analysis  
 66 to \$35,000.00 per year. An insurer shall not apply payments for coverage unrelated to  
 67 autism spectrum disorders to any maximum benefit established under this paragraph; and

68 (5) This subsection shall not be construed to require coverage for prescription drugs if  
 69 prescription drug coverage is not provided by the policy or contract. Coverage for  
 70 prescription drugs for the treatment of autism spectrum disorders shall be determined in  
 71 the same manner as coverage for prescription drugs for the treatment of any other illness  
 72 or condition is determined under the policy or contract.

73 (c) Except as otherwise provided in this Code section, any policy or contract that provides  
 74 coverage for services under this Code section may contain provisions for maximum  
 75 benefits and coinsurance and reasonable limitations, deductibles, and exclusions to the  
 76 extent that these provisions are not inconsistent with the requirements of this Code section.

77 (d) This Code section shall not be construed to affect any obligation to provide services  
 78 to an individual with an autism spectrum disorder under an individualized family service  
 79 plan, an individualized education plan as required by the federal Individuals with  
 80 Disabilities Education Act, or an individualized service plan. This Code section also shall  
 81 not be construed to limit benefits that are otherwise available to an individual under an  
 82 accident and sickness contract, policy, or benefit plan.

83 (e)(1) An insurer, corporation, or health maintenance organization, or a governmental  
 84 entity providing coverage for such treatment pursuant to this Code section, is exempt  
 85 from providing coverage for behavioral health treatment required under this Code section  
 86 and not covered by the insurer, corporation, health maintenance organization, or  
 87 governmental entity providing coverage for such treatment pursuant to this Code section  
 88 as of December 31, 2016, if:

89 (A) An actuary, affiliated with the insurer, corporation, or health maintenance  
 90 organization, who is a member of the American Academy of Actuaries and meets the  
 91 American Academy of Actuaries' professional qualification standards for rendering an  
 92 actuarial opinion related to health insurance rate making, certifies in writing to the  
 93 Commissioner that:

94 (i) Based on an analysis to be completed no more frequently than one time per year  
 95 by each insurer, corporation, or health maintenance organization, or such  
 96 governmental entity, for the most recent experience period of at least one year's  
 97 duration, the costs associated with coverage of behavioral health treatment required  
 98 under this Code section, and not covered as of December 31, 2016, exceeded 1  
 99 percent of the premiums charged over the experience period by the insurer,  
 100 corporation, or health maintenance organization; and

101 (ii) Those costs solely would lead to an increase in average premiums charged of  
 102 more than 1 percent for all insurance policies, subscription contracts, or health care  
 103 plans commencing on inception or the next renewal date, based on the premium rating  
 104 methodology and practices the insurer, corporation, or health maintenance  
 105 organization, or such governmental entity, employs; and

106 (B) The Commissioner approves the certification of the actuary.

107 (2) An exemption allowed under paragraph (1) of this subsection shall apply for a  
 108 one-year coverage period following inception or next renewal date of all insurance  
 109 policies, subscription contracts, or health care plans issued or renewed during the  
 110 one-year period following the date of the exemption, after which the insurer, corporation,  
 111 or health maintenance organization, or such governmental entity, shall again provide  
 112 coverage for behavioral health treatment required under this subsection.

113 (3) An insurer, corporation, or health maintenance organization, or such governmental  
 114 entity, may claim an exemption for a subsequent year, but only if the conditions specified  
 115 in this subsection again are met.

116 (4) Notwithstanding the exemption allowed under paragraph (1) of this subsection, an  
 117 insurer, corporation, or health maintenance organization, or such governmental entity,  
 118 may elect to continue to provide coverage for behavioral health treatment required under  
 119 this subsection.

120 (f) Beginning January 1, 2016, to the extent that this Code section requires benefits that  
 121 exceed the essential health benefits required under Section 1302(b) of the federal Patient  
 122 Protection and Affordable Care Act, P. L. 111-148, the specific benefits that exceed the  
 123 required essential health benefits shall not be required of a 'qualified health plan' as defined  
 124 in such act when the qualified health plan is offered in this state through the exchange.  
 125 Nothing in this subsection shall nullify the application of this Code section to plans offered  
 126 outside the state's exchange.

127 (g) This Code section shall not apply to any accident and sickness contract, policy, or  
 128 benefit plan offered by any employer with ten or fewer employees.

129 (h) Nothing in this Code section shall be construed to limit any coverage under any  
 130 accident and sickness contract policy or benefit plan, including, but not limited to, speech  
 131 therapy, occupational therapy, or physical therapy otherwise available under such plan.

132 (i) By January 15, 2017, and every January 15 thereafter, the department shall submit a  
 133 report to the General Assembly regarding the implementation of the coverage required  
 134 under this Code section. The report shall include, but shall not be limited to, the following:

135 (1) The total number of insureds diagnosed with autism spectrum disorder;

136 (2) The total cost of all claims paid out in the immediately preceding calendar year for  
 137 coverage required by this Code section;

138 (3) The cost of such coverage per insured per month; and

139 (4) The average cost per insured for coverage of applied behavior analysis.

140 All health carriers and health benefit plans subject to the provisions of this Code section

141 shall provide the department with all data requested by the department for inclusion in the

142 annual report."

143

## **SECTION 2.**

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