

House Bill 786

By: Representatives Frye of the 118th, Wallace of the 119th, Ballinger of the 23rd, Park of the 101st, Anulewicz of the 42nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 33-6-4 of the Official Code of Georgia Annotated, relating to
2 enumeration of unfair methods of competition and unfair or deceptive acts or practices
3 regarding insurance, so as to expand prohibitions on discrimination against victims of family
4 violence to include victims of sexual assault; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 33-6-4 of the Official Code of Georgia Annotated, relating to enumeration of
9 unfair methods of competition and unfair or deceptive acts or practices regarding insurance,
10 is amended in subsection (b) by revising paragraph (15) as follows:

11 "(15)(A) As used in this paragraph, the term:

12 (i) 'Confidential ~~family violence~~ abuse information' means information about acts of
13 family violence or sexual assault, the status of a victim of family violence or sexual
14 assault, an individual's medical condition that the insurer knows or has reason to know
15 is related to family violence or sexual assault, or the home and work addresses and
16 telephone numbers of a subject of family violence or sexual assault.

17 (ii) 'Family violence' means family violence as defined in Code Sections 19-13-1 and
18 19-13-20 and as limited by Code Section 19-13-1.

19 (iii) 'Sexual assault' means rape, sodomy, aggravated sodomy, sexual battery, and
20 aggravated sexual battery as those terms are defined in Chapter 6 of Title 16.

21 (B) No person shall deny or refuse to accept an application; refuse to insure; refuse to
22 renew; refuse to reissue; cancel, restrict, or otherwise terminate; charge a different rate
23 for the same coverage; add a premium differential; or exclude or limit coverage for
24 losses or deny a claim incurred by an insured on the basis that the applicant or insured
25 is or has been a victim of family violence or sexual assault or that such person knows
26 or has reason to know the applicant or insured may be a victim of family violence or

27 sexual assault; nor shall any person take or fail to take any of the aforesaid actions on
 28 the basis that an applicant or insured provides shelter, counseling, or protection to
 29 victims of family violence or sexual assault.

30 (C) No person shall request, directly or indirectly, any information the person knows
 31 or reasonably should know relates to acts of family violence or sexual assault or an
 32 applicant's or insured's status as a victim of family violence or sexual assault or make
 33 use of such information however obtained, except for the limited purpose of complying
 34 with legal obligations, verifying an individual's claim to be a subject of family violence
 35 or sexual assault, cooperating with a victim of family violence or sexual assault in
 36 seeking protection from family violence or sexual assault, or facilitating the treatment
 37 of a family violence or sexual assault related medical condition. When a person has
 38 information in their possession that clearly indicates that the insured or applicant is a
 39 subject of family violence or sexual assault, the disclosure or transfer of the information
 40 by a person to any person, entity, or individual is a violation of this Code section,
 41 except:

42 (i) To the subject of ~~abuse~~ family violence or sexual assault or an individual
 43 specifically designated in writing by the subject of ~~abuse~~ family violence or sexual
 44 assault;

45 (ii) To a health care provider for the direct provision of health care services;

46 (iii) To a licensed physician identified and designated by the subject of ~~abuse~~ family
 47 violence or sexual assault;

48 (iv) When ordered by the Commissioner or a court of competent jurisdiction or
 49 otherwise required by law;

50 (v) When necessary for a valid business purpose to transfer information that includes
 51 ~~family violence~~ confidential abuse information that cannot reasonably be segregated
 52 without undue hardship. ~~Family violence~~ Confidential abuse information may be
 53 disclosed pursuant to this division only to the following persons or entities, all of
 54 whom shall be bound by this subparagraph:

55 (I) A reinsurer that seeks to indemnify or indemnifies all or any part of a policy
 56 covering a subject of ~~abuse~~ family violence or sexual assault and that cannot
 57 underwrite or satisfy its obligations under the reinsurance agreement without that
 58 disclosure;

59 (II) A party to a proposed or consummated sale, transfer, merger, or consolidation
 60 of all or part of the business of the person;

61 (III) Medical or claims personnel contracting with the person, only where necessary
 62 to process an application or perform the person's duties under the policy or to

63 protect the safety or privacy of a subject of ~~abuse~~ family violence or sexual assault;

64 or

65 (IV) With respect to address and telephone number, to entities with whom the

66 person transacts business when the business cannot be transacted without the

67 address and telephone number;

68 (vi) To an attorney who needs the information to represent the person effectively,

69 provided the person notifies the attorney of its obligations under this paragraph and

70 requests that the attorney exercise due diligence to protect the confidential abuse

71 information consistent with the attorney's obligation to represent the person;

72 (vii) To the policy owner or assignee, in the course of delivery of the policy, if the

73 policy contains information about ~~abuse~~ family violence or sexual assault status; or

74 (viii) To any other entities deemed appropriate by the Commissioner.

75 (D) It is unfairly discriminatory to terminate group coverage for a subject of family

76 violence because coverage was originally issued in the name of the perpetrator of the

77 family violence and the perpetrator has divorced, separated from, or lost custody of the

78 subject of family violence, or the perpetrator's coverage has terminated voluntarily or

79 involuntarily. If termination results from an act or omission of the perpetrator, the

80 subject of family violence shall be deemed a qualifying eligible individual under Code

81 Section 33-24-21.1 and may obtain continuation and conversion of such coverages

82 notwithstanding the act or omission of the perpetrator. A person may request and

83 receive ~~family violence~~ confidential abuse information to implement the continuation

84 and conversion of coverages under this subparagraph.

85 (E) Subparagraph (C) of this paragraph shall not preclude a subject of family violence

86 or sexual assault from obtaining his or her insurance records. Subparagraph (C) of this

87 paragraph shall not prohibit a person from asking about a medical condition or a claims

88 history or from using medical information or a claims history to underwrite or to carry

89 out its duties under the policy to the extent otherwise permitted under this paragraph

90 and other applicable law.

91 (F) No person shall take action that adversely affects an applicant or insured on the

92 basis of a medical condition, claim, or other underwriting information that the person

93 knows or has reason to know is family violence or sexual assault related and which:

94 (i) Has the purpose or effect of treating family violence or sexual assault status as a

95 medical condition or underwriting criterion;

96 (ii) Is based upon correlation between a medical condition and family violence or

97 sexual assault;

98 (iii) Is not otherwise permissible by law and does not apply in the same manner and
 99 to the same extent to all applicants and insureds similarly situated without regard to
 100 whether the condition or claim is family violence or sexual assault related; or

101 (iv) Except for claim actions, is not based on a determination, made in conformance
 102 with sound actuarial and underwriting principles and guidelines generally applied in
 103 the insurance industry and supported by reasonable statistical evidence, that there is
 104 a correlation between the applicant's or insured's circumstances and a material
 105 increase in insurance risk.

106 (G) No person shall fail to pay losses arising out of family violence or sexual assault
 107 against an innocent first-party claimant to the extent of such claimant's legal interest in
 108 the covered property, if the loss is caused by the intentional act of an insured against
 109 whom a family violence or sexual assault complaint is brought for the act causing this
 110 loss.

111 (H) No person shall use other exclusions or limitations on coverage which the
 112 Commissioner has determined through the policy filing and approval process to
 113 unreasonably restrict the ability of victims of family violence or sexual assault to be
 114 indemnified for such losses.

115 (I) Any person issuing, delivering, or renewing a policy of insurance in this state at any
 116 time within a period of 24 months after July 1, 2000, shall include with such policy or
 117 renewal certificate a notice attached thereto containing the following language:

118 **NOTICE**

119 The laws of the State of Georgia prohibit insurers from unfairly discriminating against
 120 any person based upon his or her status as a victim of family violence or sexual
 121 assault."

122 **SECTION 2.**

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