**A** **BILL**

TO ENACT THE “HEALTH CARE ACCESSIBILITY FOR YOUNG AMERICANS ACT”, INCLUDING PROVISIONS TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑295 SO AS TO PROVIDE HEALTH INSURANCE COVERAGE UNDER A PARENT’S POLICY FOR CERTAIN MILITARY PERSONNEL ON TERMINATION OF ACTIVE DUTY STATUS, AMONG OTHER THINGS; BY ADDING SECTION 38‑71‑300 SO AS TO DEFINE THE TERMS “DEPENDENT” AND “ELIGIBLE DEPENDENT” FOR HEALTH INSURANCE POLICIES ISSUED IN THIS STATE; TO AMEND SECTION 38‑71‑350, RELATING TO THE REQUIRED CONTINUATION OF COVERAGE FOR HANDICAPPED CHILDREN UNDER A PARENT’S INDIVIDUAL POLICY, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 38‑71‑360, RELATING TO THE REQUIRED CONTINUATION OF COVERAGE FOR NONHANDICAPPED CHILDREN UNDER A PARENT’S INDIVIDUAL POLICY, SO AS TO MAKE CONFORMING CHANGES; TO AMEND SECTION 38‑71‑780, RELATING TO THE REQUIRED CONTINUATION OF COVERAGE TO HANDICAPPED AND DEPENDENT CHILDREN UNDER A PARENT’S GROUP POLICY, SO AS TO MAKE CONFORMING CHANGES; AND TO AMEND SECTION 38‑71‑1330, AS AMENDED, RELATING TO DEFINITIONS CONCERNING SMALL EMPLOYER HEALTH INSURANCE, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act is known and may be cited as the “Health Care Accessibility for Young Americans Act”.

SECTION 2. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑295. (A) For purposes of this section, ‘health insurance policy’ means a health benefit plan, contract, or evidence of coverage providing health insurance coverage as defined in Sections 38‑71‑670(6) and 38‑71‑840(14).

(B) Notwithstanding another provision or regulation promulgated pursuant to this chapter, a health insurance policy issued pursuant to a provision of this chapter must provide coverage to the child of a policyholder if the child has served at least six months of active duty in the National Guard of this State, the United States armed services, or reserves upon the termination of the child’s active duty status, except where the child’s active duty status terminates due to a dishonorable discharge.

(C) Coverage under this section:

(1) is cumulative to the rights available under Section 38‑71‑300;

(2) begins on the date of the child’s honorable discharge from active duty and extends for no more than six months if the child has served at least six months of active duty; and

(3) terminates if the child:

(a) marries;

(b) receives coverage under another health insurance policy;

(c) returns to active duty status;

(d) is dishonorably discharged from military service; or

(e) attains the age of thirty years.

(D) The provisions of this section apply to a policy issued under the State Health Plan, which for the purposes of this title means the employee and retiree insurance program provided for in Article 5, Chapter 11, Title 1.”

SECTION 3. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑300. (A) Notwithstanding another provision or regulation promulgated pursuant to this chapter, as used in this chapter:

(1) ‘Dependent’ or ‘eligible dependent’ means:

(a) a spouse of a policyholder or subscriber;

(b) an unmarried child under the age of twenty‑five years who primarily is dependent for financial support from his parent who is a policy holder or subscriber as documented by the parent claiming the child as a dependent on his federal income tax return and who is not eligible for coverage under a group health benefits plan, group health plan, government plan, church plan, or another health benefits plan other than an individual health insurance policy which is subject to policy form and premium rate approval as may be provided in Title 38;

(c) an unmarried child who is incapable of self support because of mental retardation or physical handicap and is primarily dependent upon his parent who is a policyholder or subscriber for support and maintenance, so long as proof of the incapacity and dependency is furnished to the insurer by the policyholder or subscriber within thirty‑one days of the child’s attainment of the limiting age and subsequently as may be required by the insurer but not more frequently than annually after the two‑year period following the child’s attainment of the limiting age; and

(d) an unmarried child who has served on active duty in the National Guard of this State or the United States armed services or reserves as provided in Section 38‑71‑295.

(2) ‘Special dependent’ means a person currently eligible for dependent coverage under the State Health Plan under the mandate imposed pursuant to item (1) of this section and Section 38‑71‑780, but who otherwise is not eligible for dependent coverage under the State Health Plan on January 1, 2010.

(B) If a dependent child initially refuses coverage under the plan or is removed from coverage by the plan, he is subject to the provisions of Section 38‑71‑850 when seeking to be included or reinstated as a beneficiary under the plan.

(C) The State Budget and Control Board annually shall establish a contribution rate for the State Health Insurance Plan specific to special dependents. This rate must cover all projected costs associated with a special dependent and must be paid fully by the subscriber.”

SECTION 4. Section 38‑71‑350 of the 1976 Code is amended to read:

“Section 38‑71‑350. An individual hospital or medical expense insurance policy, hospital service plan contract, or medical service plan contract delivered or issued for delivery in this State, which provides that coverage of a dependent child terminates upon attainment of the limiting age for dependent children specified in the policy or contract and is subject to Section 38‑71‑300 ~~shall also provide in substance that attainment of the limiting age does not operate to terminate the coverage of the child while the child is and continues to be both (a) incapable of self‑sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the policyholder or subscriber for support and maintenance, so long as proof of the incapacity and dependency is furnished to the insurer by the policyholder or subscriber within thirty‑one days of the child’s attainment of the limiting age and subsequently as may be required by the insurer but not more frequently than annually after the two‑year period following the child’s attainment of the limiting age~~.”

SECTION 5. Section 38‑71‑360 of the 1976 Code is amended to read:

“Section 38‑71‑360. An individual hospital, medical, or surgical expense incurred insurance policy, hospital service plan contract, or medical service plan contract, other than a limited classification policy, delivered or issued for delivery in this State, which provides that coverage of a nonhandicapped dependent child terminates upon attainment of the limiting age for the child as specified in the policy or contract and is subject to Section 38‑71‑300, ~~shall~~ also shall contain a provision to the effect that upon the attainment of the limiting age the child is entitled to have issued to him, without evidence of insurability, upon application made to the insurer within thirty days following the attainment of the age, and upon payment of the appropriate premium, an individual policy of accident and health insurance. The policy ~~shall~~ must provide the coverage then being issued by the insurer, which is closest to, but not greater than, the terminated coverage. ~~Any~~ A probationary or waiting period set forth in the policy must be considered as met to the extent coverage was in force under the prior policy. For purposes of this section, ‘limited classification policy’ means an accident‑only policy, a limited accident policy, a travel accident policy, or a specified‑disease policy.”

SECTION 6. Section 38‑71‑780 of the 1976 Code is amended to read:

“Section 38‑71‑780. A group hospital or medical expense insurance policy, hospital service plan contract, or medical service plan contract delivered or issued for delivery in this State, or a policy issued under the State Health Plan, which for the purposes of this title means the employee and retiree insurance program provided for in Article 5, Chapter 11, Title 1, which provides that coverage of a dependent child of an employee or other member of the coverage group terminates upon attainment of the limiting age for dependent children specified in the policy or contract and is subject to Section 38‑71‑300 ~~shall also provide in substance that attainment of the limiting age does not operate to terminate the coverage of the child while the child is and continues to be both (a) incapable of self‑sustaining employment by reason of mental retardation or physical handicap, and (b) chiefly dependent upon the employee or member for support and maintenance, as long as proof of the incapacity and dependency is furnished to the insurer by the employee or member within thirty‑one days of the child’s attainment of the limiting age and subsequently as may be required by the insurer, but not more frequently than annually after the two‑year period following the child’s attainment of the limiting age~~.”

SECTION 7. Section 38‑71‑1330(5) of the 1976 Code is amended to read:

“(5) ‘Dependent’ means ~~a spouse, an unmarried child under the age of nineteen years, an unmarried child who is a full‑time student between the ages of nineteen and twenty‑two and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent~~ a dependent or eligible dependent as defined in Section 38‑71‑300.”

SECTION 8. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 9. Upon approval by the Governor, this act takes effect January 1, 2010.

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