

SB131 ENROLLED



1 SB131
2 V4Z7LLP-2
3 By Senator Barfoot
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 20-Feb-24



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1 Enrolled, An Act,

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4 Relating to the Alabama Sunset Law; to continue the
5 existence and functioning of the Alabama Behavior Analyst
6 Licensing Board within the Division of Developmental
7 Disabilities of the Department of Mental Health until October
8 1, 2026, with certain modifications; to amend Section 34-5A-3,
9 Code of Alabama 1975, to require the department to provide
10 certain services, office space, and personnel for the board.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Pursuant to the Alabama Sunset Law, the
13 Sunset Committee recommends the continuance of the Alabama
14 Behavior Analyst Licensing Board within the Division of
15 Developmental Disabilities of the Department of Mental Health
16 until October 1, 2026, with the additional recommendations for
17 statutory change as set out in Section 3.

18 Section 2. The existence and functioning of the Alabama
19 Behavior Analyst Licensing Board, created and functioning
20 pursuant to Section Chapter 5A of Title 34, Code of Alabama
21 1975, is continued, and those code sections are expressly
22 preserved.

23 Section 3. Section 34-5A-3 of the Code of Alabama 1975,
24 is amended to read as follows:

25 "§34-5A-3

26 (a) (1) The Alabama Behavior Analyst Licensing Board is
27 established within the Department of Mental Health, Division
28 of Developmental Disabilities. The department shall provide



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29 all of the following for the performance of the duties of the
30 board:

31 a. Financial services.

32 b. Legal services.

33 c. Dedicated office space within the office of the
34 State Autism Coordinator.

35 d. An administrative assistant, who is shared or
36 dedicated to the board, and other personnel as necessary for
37 the efficient operation of the board.

38 e. Information technology services that shall include
39 one or more dedicated phone lines, dedicated email addresses
40 for board members and staff, and website maintenance.

41 f. Necessary office furniture and supplies.

42 (2) The board shall consist of seven members, including
43 four licensed behavior analysts, one licensed psychologist in
44 the state, one parent or legal guardian of ~~a person~~ an
45 individual being treated for a behavior disorder, or ~~a person~~
46 an individual who has received services from a licensed
47 behavior analyst, and one public member, who, except for the
48 initial members, shall be appointed by the Governor, as
49 provided in subsection (b). ~~The membership of~~ appointing
50 authority shall coordinate his or her appointments to assure
51 ~~the board shall be~~ membership is inclusive and ~~reflect~~
52 reflects the racial, gender, geographic, ~~urban/rural~~ urban,
53 rural, and economic diversity of the state. Each member shall
54 serve a three-year term, with initial terms being staggered so
55 that one member serves an initial term of one year, three
56 members serve initial terms of two years, and three members



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57 serve initial terms of three years, as provided by the
58 Commissioner of the Department of Mental Health. The public
59 member shall be ~~a person~~ an individual who is not and never
60 was a member of any profession licensed or regulated under
61 this chapter, or the spouse of ~~such person~~ the individual, and
62 ~~a person~~ who does not have and never has had a material
63 interest in the practice of behavior analysis.

64 (b) The initial members of the board shall be board
65 certified behavior analysts, as recognized by the certifying
66 entity, and shall each become licensed as a behavior analyst
67 or assistant behavior analyst, pursuant to this chapter,
68 during his or her initial term serving on the board. These
69 initial board members shall be appointed by the Commissioner
70 of the Department of Mental Health upon recommendations
71 submitted by the Alabama Association for Behavior Analysis,
72 the Alabama Interagency Autism Coordinating Council, the
73 Department of Mental Health, and any other group determined
74 appropriate by the commissioner. Subsequent appointments shall
75 be appointed by the Governor upon recommendations submitted by
76 the board.

77 (c) Any vacancy occurring other than by expiration of
78 terms shall be filled for the remainder of the unexpired term
79 by appointment by the Governor, upon recommendation of the
80 board.

81 (d) No member shall serve more than two successive
82 three-year terms.

83 (e) A member shall serve until a successor is appointed
84 and assumes office.



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85 (f) Members shall be paid out of the funds of the board
86 the same per diem as prescribed by law for state employees for
87 each day of attendance of board business.

88 (g) The board shall meet at least twice annually and
89 may meet at ~~such~~ other times as necessary, at the call of the
90 chair or by a majority of the members, to complete the
91 business required.

92 (h) The board shall ~~promulgate~~ adopt and enforce rules
93 and establish fees necessary to implement this chapter.

94 (i) The board shall investigate all complaints relating
95 to the practice of behavior analysis by any licensed behavior
96 analyst, licensed assistant behavior analyst, or any ~~person~~
97 individual alleged to be practicing or providing supervision
98 without a state license.

99 (1) The board may fine, censure, revoke, or deny a
100 license, place on probation, reprimand, or otherwise
101 discipline a licensee on any of the following grounds:

102 a. Conviction of a crime ~~which~~ that the board determines
103 to be of a nature as to render the ~~person~~ individual convicted
104 unfit to practice as a behavior analyst.

105 b. Violation of the professional and ethical compliance
106 code or the rules of the board.

107 c. Fraud or misrepresentation in obtaining a license.

108 (2) The board may summarily suspend the license of a
109 licensee who the board determines poses an imminent danger to
110 the public. A hearing shall be held within 10 days after the
111 suspension to determine whether the summary action was
112 warranted.



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113 (3) No license may be denied, suspended, or revoked or
114 ~~a person~~ an individual otherwise disciplined without prior
115 notice and opportunity for hearing, except that the board,
116 without prior notice of hearing, may take action against any
117 ~~person~~ individual convicted of a crime listed in paragraph ~~a.~~
118 ~~of subdivision (1)~~ a. No license may be denied, suspended, or
119 revoked or ~~a person~~ an individual otherwise disciplined
120 pursuant to this section except by vote of a majority of the
121 membership of the board.

122 (4) Any person may file a complaint with the board
123 seeking the denial, suspension, or revocation of a license
124 issued or pending issuance by the board, or seeking to
125 otherwise discipline ~~a person~~ an individual for any violation
126 of this chapter or rules adopted by the board. Complaints
127 shall be in a form prescribed by the board. If the board
128 determines that a complaint alleges facts ~~which~~ that, if true,
129 would require disciplinary action or denial, revocation, or
130 suspension of a license, the board shall promptly institute a
131 hearing. If the board determines that a complaint does not
132 allege facts which warrant a hearing, the complaint may be
133 dismissed by the board. The board, on its own motion, may
134 institute a hearing for disciplinary action or for the denial,
135 suspension, or revocation of a license.

136 (5) Any ~~person~~ individual whose license has been
137 suspended or revoked may apply to the board for vacation of
138 the suspension or reinstatement of his or her license.

139 (j) Upon finding that ~~a person~~ an individual governed
140 by this chapter has practiced as a behavior analyst,



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141 advertised that he or she performs as a behavior analyst, or
142 utilized a title or description denoting that he or she is a
143 behavior analyst without first having obtained a license, the
144 board may do any of the following:

145 (1) Impose an administrative fine.

146 (2) Issue a cease and desist order.

147 (3) Petition the circuit court of the county where the
148 act occurred to enforce the cease and desist order and collect
149 the assessed fine.

150 (k) A majority of the membership of the board shall
151 constitute a quorum.

152 (l) The board shall elect a chair from among its
153 membership on an annual basis.

154 (m) There is established a separate special revenue
155 fund in the State Treasury known as the Alabama Behavior
156 Analyst Licensing Board Fund. All receipts collected by the
157 board pursuant to this chapter shall be deposited into this
158 fund and used to the credit of the board for its operation and
159 to carry out this chapter. Receipts shall be disbursed only by
160 warrant of the Comptroller drawn upon the State Treasury upon
161 itemized vouchers approved by the chair."

162 Section 4. The Legislature concurs in the
163 recommendations of the Sunset Committee as provided in
164 Sections 1, 2, and 3.

165 Section 5. This act shall become effective June 1,
166 2024.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB131
Senate 29-Feb-24
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Passed: 30-Apr-24

By: Senator Barfoot