

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 538

INTRODUCER: Senator Hooper

SUBJECT: Private Instructional Personnel Providing Applied Behavior Analysis Services

DATE: November 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Palazes</u>	<u>Bouck</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>HP</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 538 expands the list of private instructional personnel who may provide applied behavior analysis services in public schools. Specifically, the bill authorizes services by registered behavior technicians who hold a nationally recognized certification and practice under the supervision of either certified behavior analysts or professionals licensed under chapter 490 or chapter 491 of the Florida Statutes.

The bill takes effect on July 1, 2022

Present Situation:

Applied Behavior Analysis

Behavior Analysis measures outcomes directly through data collection and direct observation of behavior.¹ Applied Behavior Analysis (ABA) is the use of principled methods of behavior analysis to bring about meaningful changes in socially important behaviors.² ABA is best known for its success in treating individuals with autism spectrum disorder and other developmental disabilities.³ Florida law defines ABA as the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including but not limited to, the use of direct

¹ Florida Association for Behavior Analysis, *What is Behavior Analysis?*, <https://www.fabaworld.org/what-is-behavior-analysis> (last visited Nov. 19, 2021).

² Association of Professional Behavior Analysts, *Identifying Applied Behavior Analysis Interventions white paper*, (2017), available at <https://cdn.ymaws.com/www.apbahome.net/resource/collection/1FDDDBDD2-5CAF-4B2A-AB3F-DAE5E72111BF/APBAwhitepaperABAinterventions.pdf>, at 16.

³ Behavior Analyst Certification Board, *Autism & Intellectual/Development Disabilities*, https://www.bacb.com/wp-content/uploads/2020/05/Behavioral-Treatment-of-Autism-and-Other-Developmental-Disabilities-Fact-Sheet_210108.pdf (last visited Nov. 18, 2021).

observation, measurement, and functional analysis of the relations between environment and behavior.⁴

Applied Behavior Analysis Providers in Florida

Florida statutes do not define requirements for licensure or certification for behavior analysts or other types of ABA providers. The Agency for Persons with Disabilities relies on the Behavior Analyst Certification Board (BACB)⁵ for its certification program and does not independently certify behavior analysts.⁶ Nationally, individuals can become certified behavior analysts through the BACB. The BACB provides three credentials for behavior analysts⁷ the Board Certified Behavior Analyst (BCBA), Board Certified Assistant Behavior Analyst (BCaBA), and the Registered Behavior Technician (RBT). The requirements for the credentials are outlined below:

- Board Certified Behavior Analyst:⁸
 - At least a master's degree in applied behavior analysis or a closely-related field;
 - Completion of 270 hours of graduate-level instruction in specified behavior analysis topics;
 - Completion of specified hours of supervised experiential training in ABA; and,
 - Passage of the BCBA examination.
- Board Certified Assistant Behavior Analyst:⁹
 - At least a bachelor's degree;
 - Completion of 180 classroom hours of instruction in specified behavior analysis topics;
 - Completion of specified hours of supervised experiential training in ABA; and,
 - Passage of the BCaBA examination.
- Registered Behavior Technician:¹⁰
 - At least a high school diploma;
 - Be at least 18 years old;
 - Completion of 40 hours of training in specified behavior analysis topics;
 - Completion of the RBT competency assessment; and
 - Passage of the RBT examination.

⁴ Sections 627.6686(2)(a), F.S. and 641.31908(2)(a), F.S.

⁵ The BACB is a nonprofit corporation that was established in 1998 to offer accredited behavior analysis certification programs that meet certification needs identified by behavior analysts, governments, and consumers of behavior-analytic services.

⁶ Rule 65G-4.001(5), F.A.C. The rule also lists persons licensed in accordance with Chapter 490 or 491, F.S. can serve as behavior analysts.

⁷ Behavior Analyst Certification Board, Credentials, <https://www.bacb.com/>. The BACB also offered a Florida Certified Behavior Analyst, who have the same responsibilities as a BCBA, but the certification is not valid in other states. <https://www.bacb.com/flcba/> (last visited Nov. 19, 2021).

⁸ Behavior Analyst Certification Board, *Board Certified Behavior Analyst Handbook*, https://www.bacb.com/wp-content/uploads/2021/09/BCBAHandbook_210915-2.pdf (last visited Nov. 19, 2021).

⁹ Behavior Analyst Certification Board, *Board Certified Assistant Behavior Analyst Handbook*, https://www.bacb.com/wp-content/uploads/2021/09/BCaBAHandbook_210915-2.pdf (last visited Nov. 19, 2021).

¹⁰ Behavior Analyst Certification Board, *Registered Behavior Technician Handbook*, https://www.bacb.com/wp-content/uploads/2021/09/RBTHandbook_210915-3.pdf (Nov. 22, 2021).

The RBT is a paraprofessional certified in behavior analysis. RBTs assist in delivering behavior-analytic services and practice under the direction and close supervision of an RBT Supervisor and/or an RBT Requirements Coordinator, who are responsible for all work RBTs perform.¹¹

ABA Services in a Florida Public School Setting

Behavior analysis in education provides a scientific approach to designing, implementing, and evaluating instruction based on analyzing interactions between what the teacher does and student learning.¹²

Section 1003.572, F.S., was created in 2013,¹³ to encourage cooperation and coordination of services for students with disabilities through public and private instructional collaboration. Private instructional personnel who are hired or contracted by parents to collaborate with public instructional personnel must be permitted to observe the student in the educational setting, act as a team with instructional personnel in the educational setting, and provide services in the educational setting.¹⁴ Private instructional personnel must undergo a background screening and may serve at the time and place determined by the public school.¹⁵

The statute defines the following as private instructional personnel:¹⁶

- Individuals certified under s. 393.1717 or licensed under chapter 490¹⁸ or chapter 491¹⁹ of the Florida Statutes for applied behavior analysis services as defined in ss. 627.6686 and 641.31098, F.S..
- Speech-language pathologists licensed under s. 468.1185, F.S..
- Occupational therapists licensed under part III of chapter 468.
- Physical therapists licensed under chapter 486.
- Psychologists licensed under chapter 490.
- Clinical social workers licensed under chapter 491.

The statute does not expressly address other behavior analysis professionals, such as BCaBAs or RBTs who implement the treatment plans established by behavior analysts.

¹¹ Behavior Analyst Certification Board, *Registered Behavior Technician Handbook, at 1 (2021)*, available at https://www.bacb.com/wp-content/uploads/2021/09/RBTHandbook_210915-3.pdf (Last visited Nov. 22, 2021).

¹² Behavior Analyst Certification Board, *Behavior Analysis in Education*, https://www.bacb.com/wp-content/uploads/2020/05/Behavior-Analysis-in-Education-Fact-Sheet_210108.pdf (last visited Nov. 22, 2021).

¹³ Section 5, ch. 2013-36, L.O.F.

¹⁴ Section 1003.572(3), F.S.

¹⁵ *Id.*

¹⁶ Section 1003.572(1), F.S.

¹⁷ Section 393.17 authorizes the Agency for Persons with Disabilities to establish a certification process for behavior analysts and requires the agency to recognize the certification of behavior analysts awarded by a nonprofit corporation that adheres to national standards of boards that determine professional credentials and whose mission is to meet professional credentialing needs identified by behavior analysts, state governments, and consumers of behavior analysis services. The Agency for Persons with disabilities promulgated these requirements in rule 65G-4.001(5), F.A.C.

¹⁸ Chapter 490, “Psychological Services Act” regulates psychological services in the state of Florida, including but not limited to, the process and requirements to become a Florida Department of Health licensed psychologist, defining the scope of practice of psychology, and the continuing education requirements of a licensed psychologist.

¹⁹ Chapter 491, regulates mental health counseling, clinical social work, and marriage and family therapy, including but not limited to the process and requirements to become a Florida Department of Health licensed marriage and family therapist, clinical social worker, and mental health counselor.

II. Effect of Proposed Changes:

SB 538 expands the list of approved private instructional providers who may provide services to students with disabilities to include registered behavior technicians who hold a nationally recognized paraprofessional certification in behavior analysis. The registered behavior analyst would be required to practice under the supervision of an individual licensed under chapter. 490 or 491 or a certified behavior analyst.

This change may result in more parents and school districts hiring or contracting with registered behavior technicians, which in turn may result in more children who need behavior analysis services provided with services.

III. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

IV. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends section 1003.572 of the Florida Statutes.

VIII. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.