

HOUSE BILL No. 1131

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-0.5; IC 25-23.6; IC 25-41; IC 35-52-25.

Synopsis: Licensure of behavior analysts. Provides for licensure of behavior analysts and assistant behavior analysts (rather than certification under current law). Specifies requirements for a license. Sets forth exemptions. Makes conforming amendments.

Effective: July 1, 2019.

Judy

January 7, 2019, read first time and referred to Committee on Public Health.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1131

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-0.5-1-2.7 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 2.7. IC 25-1-1.1-4 applies to an**
4 **individual licensed or certified under IC 25-23.6-3.5 (behavior**
5 **analysts and assistant behavior analysts).**

6 SECTION 2. IC 25-0.5-2-36 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2019]: **Sec. 36. IC 25-1-2-2.1 applies to licenses held by behavior**
9 **analysts and assistant behavior analysts.**

10 SECTION 3. IC 25-23.6-1-5.8 IS ADDED TO THE INDIANA
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2019]: **Sec. 5.8. (a) "Practice of behavior**
13 **analysis" means the design, implementation, and evaluation of**
14 **instructional and environmental modifications to produce socially**
15 **significant improvements in human behavior. The term includes**
16 **the following:**

17 (1) **Empirical identification of functional relations between**



- 1 behavior and environmental factors through functional
 2 assessment and analysis.
- 3 **(2) Applied behavior analysis interventions based on scientific**
 4 **research and the direct observation and measurement of**
 5 **behavior and the environment.**
- 6 **(3) Use of contextual factors, motivating operations,**
 7 **antecedent stimuli, positive reinforcement, and other**
 8 **consequences to assist people in developing new behaviors,**
 9 **increase or decrease existing behaviors, and emit behaviors**
 10 **under specific environmental conditions.**
- 11 **(b) The term does not include the following:**
- 12 **(1) Psychological testing.**
- 13 **(2) Diagnosis of mental or physical disorders.**
- 14 **(3) Neuropsychology.**
- 15 **(4) Psychotherapy.**
- 16 **(5) Cognitive therapy.**
- 17 **(6) Sex therapy.**
- 18 **(7) Psychoanalysis.**
- 19 **(8) Hypnotherapy.**
- 20 **(9) Counseling.**
- 21 SECTION 4. IC 25-23.6-2-2, AS AMENDED BY P.L.122-2009,
 22 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2019]: Sec. 2. (a) The board consists of ~~eleven (11)~~ **thirteen**
 24 **(13)** members appointed by the governor for terms of three (3) years.
 25 The board must include the following:
- 26 (1) Two (2) marriage and family therapists who:
- 27 (A) have at least a master's degree in marriage and family
 28 therapy or a related field from an eligible postsecondary
 29 educational institution;
- 30 (B) are licensed under this chapter; and
- 31 (C) have five (5) years of experience in marriage and family
 32 therapy.
- 33 (2) One (1) social worker who:
- 34 (A) has at least a master's degree in social work from an
 35 eligible postsecondary educational institution accredited by the
 36 Council on Social Work Education;
- 37 (B) is licensed under this article; and
- 38 (C) has at least five (5) years of experience as a social worker.
- 39 (3) One (1) social services director of a hospital with a social
 40 work degree who has at least three (3) years of experience in a
 41 hospital setting.
- 42 (4) Two (2) mental health counselors who:



- 1 (A) have at least a master's degree in mental health counseling;
 2 (B) are licensed under this article; and
 3 (C) have at least five (5) years experience as a mental health
 4 counselor.
- 5 (5) Two (2) consumers who have never been credentialed under
 6 this article.
- 7 (6) One (1) physician licensed under IC 25-22.5 who has training
 8 in psychiatric medicine.
- 9 (7) Two (2) licensed clinical addiction counselors who:
 10 (A) are licensed under IC 25-23.6-10.5; and
 11 (B) have at least five (5) years experience in clinical addiction
 12 counseling.
- 13 **(8) Two (2) licensed behavior analysts who:**
 14 **(A) are licensed under IC 25-23.6-3.5; and**
 15 **(B) have at least five (5) years experience in behavior**
 16 **analysis.**
- 17 (b) Not more than ~~six (6)~~ **seven (7)** members of the board may be
 18 from the same political party.
- 19 SECTION 5. IC 25-23.6-2-8, AS AMENDED BY P.L.192-2017,
 20 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2019]: Sec. 8. (a) The board shall adopt rules under IC 4-22-2
 22 establishing standards for the following:
- 23 (1) The competent practice of marriage and family therapy,
 24 **behavior analysis**, bachelor's degree social work, social work,
 25 clinical social work, mental health counseling, addiction
 26 counseling, and clinical addiction counseling.
- 27 (2) The renewal of licenses issued under this article.
- 28 (3) Standards for the administration of this article.
- 29 (4) Continuing education requirements for an individual seeking
 30 renewal of licensure as a bachelor's degree social worker, social
 31 worker, clinical social worker, **behavior analyst, assistant**
 32 **behavior analyst**, or marriage and family therapist.
- 33 (5) The retention of patient records and reports by a counselor.
- 34 (6) The approval of continuing education providers, programs,
 35 courses, fees, and proof of course completion.
- 36 (b) The board shall establish fees under IC 25-1-8-2.
- 37 (c) The board shall do the following:
- 38 (1) Consider the qualifications of individuals who apply for a
 39 license under this article.
- 40 (2) Provide for examinations required under this article.
- 41 (3) Subject to IC 25-1-8-6, renew licenses under this article.
- 42 (4) Conduct proceedings under IC 25-1-9.



1 SECTION 6. IC 25-23.6-2-8.5 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2019]: **Sec. 8.5. (a) The behavior analyst**
 4 **section of the board is established. The section consists of the**
 5 **following:**

6 (1) **Two (2) behavior analyst members of the board.**

7 (2) **Two (2) consumer members of the board.**

8 (3) **One (1) physician member of the board.**

9 (b) **Three (3) members of the behavior analyst section, two (2)**
 10 **of whom must be behavior analysts, constitute a quorum.**

11 SECTION 7. IC 25-23.6-2-11, AS AMENDED BY P.L.122-2009,
 12 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2019]: Sec. 11. The **behavior analyst**, social worker,
 14 marriage and family therapist, mental health counselor, and addiction
 15 counselor sections of the board shall do the following:

16 (1) Approve continuing education courses authorized under this
 17 article.

18 (2) Propose rules to the board concerning the practice of the
 19 profession regulated by each section.

20 (3) Other duties as directed by the board.

21 SECTION 8. IC 25-23.6-3.5 IS ADDED TO THE INDIANA CODE
 22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2019]:

24 **Chapter 3.5. Behavior Analyst and Assistant Behavior Analyst**
 25 **Licensure**

26 **Sec. 1. An individual who applies for a license as a behavior**
 27 **analyst must meet the following requirements:**

28 (1) **Furnishes satisfactory evidence to the board that the**
 29 **individual is certified by the Behavior Analyst Certification**
 30 **Board, Inc., as a certified behavior analyst.**

31 (2) **Submits to a national criminal history background check**
 32 **under IC 25-1-1.1-4 and furnishes satisfactory evidence to the**
 33 **board that the individual does not have a conviction for a**
 34 **crime that has a direct bearing on the individual's ability to**
 35 **practice competently.**

36 (3) **Furnishes satisfactory evidence to the board that the**
 37 **individual has not been the subject of a disciplinary action by**
 38 **a licensing or certification agency of another state or**
 39 **jurisdiction on the grounds that the individual was not able to**
 40 **practice behavior analysis without endangering the public.**

41 (4) **Applies for the license in the manner prescribed by the**
 42 **board.**



1 (5) Pays the fee established by the board.

2 **Sec. 2. (a) An individual who applies for a license as an assistant**
 3 **behavior analyst must meet the following requirements:**

4 (1) Furnishes satisfactory evidence to the board that the
 5 individual is certified by the Behavior Analyst Certification
 6 Board, Inc., as a certified assistant behavior analyst.

7 (2) Submits to a national criminal history background check
 8 under IC 25-1-1.1-4 and furnishes satisfactory evidence to the
 9 board that the individual does not have a conviction for a
 10 crime that has a direct bearing on the individual's ability to
 11 practice competently.

12 (3) Furnishes satisfactory evidence to the board that the
 13 individual has not been the subject of a disciplinary action by
 14 a licensing or certification agency of another state or
 15 jurisdiction on the grounds that the individual was not able to
 16 practice behavior analysis without endangering the public.

17 (4) Applies for the license in the manner prescribed by the
 18 board.

19 (5) Pays the fee established by the board.

20 **(b) An individual who is licensed as an assistant behavior**
 21 **analyst under this section must be directly supervised by a**
 22 **behavior analyst licensed under section 1 of this chapter.**

23 **(c) The individual must submit to the board a written record of**
 24 **the supervision provided to the individual by a behavior analyst**
 25 **licensed under section 1 of this chapter.**

26 **Sec. 3. If the board determines that:**

27 (1) a person possesses a valid license from another jurisdiction
 28 to perform acts that require a license under this chapter; and

29 (2) the jurisdiction issuing the license imposes substantially
 30 equal requirements on applicants for the license as are
 31 imposed on applicants for an Indiana license;

32 **the board may issue a license to perform those acts in Indiana to**
 33 **that person upon payment of the licensure fee.**

34 **Sec. 4. An individual who is licensed under this chapter shall**
 35 **comply with the requirements of the Professional and Ethical**
 36 **Compliance Code for Behavior Analysts published by the Behavior**
 37 **Analyst Certification Board, Inc.**

38 **Sec. 5. The board may summarily suspend a license under**
 39 **IC 25-1-9-10.**

40 **Sec. 6. (a) An individual may not:**

41 (1) profess to be a licensed behavior analyst or licensed
 42 assistant behavior analyst; or



1 (2) use the initials "LBA" or "LABA" or any other words,
 2 letters, abbreviations, or insignia indicating or implying that
 3 the individual is a licensed behavior analyst or licensed
 4 assistant behavior analyst;

5 unless the individual holds a license under this chapter.

6 (b) This chapter may not be construed to limit the use of applied
 7 behavior analysis techniques by a person who does not use a title
 8 specified in subsection (a) and is one (1) of the following:

9 (1) A licensed or certified health care professional acting
 10 within the scope of the person's license or certificate and
 11 within the person's training.

12 (2) A student, an intern, or a trainee pursuing a course of
 13 study to gain licensure under this chapter in an accredited
 14 eligible postsecondary educational institution or training
 15 institution.

16 (3) Not a resident of Indiana if the person performed the
 17 services in Indiana for not more than five (5) days in any one
 18 (1) month or fifteen (15) days within any one (1) calendar year
 19 and the person is authorized to perform such services under
 20 the laws of the state or country in which the person resides.

21 (4) An applied behavior analysis direct contact technician, or
 22 a family member implementing a plan within the home, who
 23 acts under the extended authority and direction of a behavior
 24 analyst or assistant behavior analyst licensed under this
 25 chapter.

26 **Sec. 7. An individual who violates this chapter commits a Class**
 27 **A misdemeanor.**

28 SECTION 9. IC 25-41 IS REPEALED [EFFECTIVE JULY 1,
 29 2019]. (BEHAVIOR ANALYSTS).

30 SECTION 10. IC 35-52-25-29.5 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2019]: **Sec. 29.5. IC 25-23.6-3.5-7 defines a**
 33 **crime concerning behavior analysts and assistant behavior**
 34 **analysts.**

35 SECTION 11. IC 35-52-25-66 IS REPEALED [EFFECTIVE JULY
 36 1, 2019]. **Sec. 66. IC 25-41-1-2 defines a crime concerning behavior**
 37 **analysts.**

