

SB131 INTRODUCED



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



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SYNOPSIS:

Under existing law, termination dates are established for enumerated state agencies. The agencies are periodically reviewed by the Alabama Sunset Committee. After the review process is completed, the committee prepares its recommendations for the agencies to the Legislature in the form of sunset bills which either continue, terminate, or continue with modifications each agency reviewed.

This bill would provide for the continuance of the Alabama Behavior Analyst Licensing Board within the Division of Developmental Disabilities of the Department of Mental Health until October 1, 2026, with the following changes: To require the department to provide certain services, office space, and personnel for the board.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Behavior Analyst Licensing Board within the Division of Developmental



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29 Disabilities of the Department of Mental Health until October
30 1, 2026, with certain modifications; to amend Section 34-5A-3,
31 Code of Alabama 1975, to require the department to provide
32 certain services, office space, and personnel for the board.
33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. Pursuant to the Alabama Sunset Law, the
35 Sunset Committee recommends the continuance of the Alabama
36 Behavior Analyst Licensing Board within the Division of
37 Developmental Disabilities of the Department of Mental Health
38 until October 1, 2026, with the additional recommendations for
39 statutory change as set out in Section 3.

40 Section 2. The existence and functioning of the Alabama
41 Behavior Analyst Licensing Board, created and functioning
42 pursuant to Section Chapter 5A of Title 34, Code of Alabama
43 1975, is continued, and those code sections are expressly
44 preserved.

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

47 "§34-5A-3

48 (a) (1) The Alabama Behavior Analyst Licensing Board is
49 established within the Department of Mental Health, Division
50 of Developmental Disabilities. The department shall provide
51 all of the following for the performance of the duties of the
52 board:

53 a. Financial services.

54 b. Legal services.

55 c. Dedicated office space within the office of the
56 State Autism Coordinator.



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57 d. An administrative assistant, who is shared or
58 dedicated to the board, and other personnel as necessary for
59 the efficient operation of the board.

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

63 f. Necessary office furniture and supplies.

64 (2) The board shall consist of seven members, including
65 four licensed behavior analysts, one licensed psychologist in
66 the state, one parent or legal guardian of ~~a person~~ an
67 individual being treated for a behavior disorder, or ~~a person~~
68 an individual who has received services from a licensed
69 behavior analyst, and one public member, who, except for the
70 initial members, shall be appointed by the Governor, as
71 provided in subsection (b). The ~~membership of~~ appointing
72 authority shall coordinate his or her appointments to assure
73 the board ~~shall be~~ membership is inclusive and ~~reflect~~
74 reflects the racial, gender, geographic, ~~urban/rural~~ urban,
75 rural, and economic diversity of the state. Each member shall
76 serve a three-year term, with initial terms being staggered so
77 that one member serves an initial term of one year, three
78 members serve initial terms of two years, and three members
79 serve initial terms of three years, as provided by the
80 Commissioner of the Department of Mental Health. The public
81 member shall be ~~a person~~ an individual who is not and never
82 was a member of any profession licensed or regulated under
83 this chapter, or the spouse of ~~such person~~ the individual, and
84 ~~a person~~ who does not have and never has had a material



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85 interest in the practice of behavior analysis.

86 (b) The initial members of the board shall be board
87 certified behavior analysts, as recognized by the certifying
88 entity, and shall each become licensed as a behavior analyst
89 or assistant behavior analyst, pursuant to this chapter,
90 during his or her initial term serving on the board. These
91 initial board members shall be appointed by the Commissioner
92 of the Department of Mental Health upon recommendations
93 submitted by the Alabama Association for Behavior Analysis,
94 the Alabama Interagency Autism Coordinating Council, the
95 Department of Mental Health, and any other group determined
96 appropriate by the commissioner. Subsequent appointments shall
97 be appointed by the Governor upon recommendations submitted by
98 the board.

99 (c) Any vacancy occurring other than by expiration of
100 terms shall be filled for the remainder of the unexpired term
101 by appointment by the Governor, upon recommendation of the
102 board.

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

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

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

110 (g) The board shall meet at least twice annually and
111 may meet at ~~such~~ other times as necessary, at the call of the
112 chair or by a majority of the members, to complete the



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113 business required.

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

116 (i) The board shall investigate all complaints relating
117 to the practice of behavior analysis by any licensed behavior
118 analyst, licensed assistant behavior analyst, or any ~~person~~
119 individual alleged to be practicing or providing supervision
120 without a state license.

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

124 a. Conviction of a crime ~~which~~ that the board determines
125 to be of a nature as to render the ~~person~~ individual convicted
126 unfit to practice as a behavior analyst.

127 b. Violation of the professional and ethical compliance
128 code or the rules of the board.

129 c. Fraud or misrepresentation in obtaining a license.

130 (2) The board may summarily suspend the license of a
131 licensee who the board determines poses an imminent danger to
132 the public. A hearing shall be held within 10 days after the
133 suspension to determine whether the summary action was
134 warranted.

135 (3) No license may be denied, suspended, or revoked or
136 ~~a person~~ an individual otherwise disciplined without prior
137 notice and opportunity for hearing, except that the board,
138 without prior notice of hearing, may take action against any
139 ~~person~~ individual convicted of a crime listed in paragraph ~~a.~~
140 ~~of subdivision~~ (1) a. No license may be denied, suspended, or



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141 revoked or ~~a person~~ an individual otherwise disciplined
142 pursuant to this section except by vote of a majority of the
143 membership of the board.

144 (4) Any person may file a complaint with the board
145 seeking the denial, suspension, or revocation of a license
146 issued or pending issuance by the board, or seeking to
147 otherwise discipline ~~a person~~ an individual for any violation
148 of this chapter or rules adopted by the board. Complaints
149 shall be in a form prescribed by the board. If the board
150 determines that a complaint alleges facts ~~which~~ that, if true,
151 would require disciplinary action or denial, revocation, or
152 suspension of a license, the board shall promptly institute a
153 hearing. If the board determines that a complaint does not
154 allege facts which warrant a hearing, the complaint may be
155 dismissed by the board. The board, on its own motion, may
156 institute a hearing for disciplinary action or for the denial,
157 suspension, or revocation of a license.

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

161 (j) Upon finding that ~~a person~~ an individual governed
162 by this chapter has practiced as a behavior analyst,
163 advertised that he or she performs as a behavior analyst, or
164 utilized a title or description denoting that he or she is a
165 behavior analyst without first having obtained a license, the
166 board may do any of the following:

167 (1) Impose an administrative fine.

168 (2) Issue a cease and desist order.



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169 (3) Petition the circuit court of the county where the
170 act occurred to enforce the cease and desist order and collect
171 the assessed fine.

172 (k) A majority of the membership of the board shall
173 constitute a quorum.

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

176 (m) There is established a separate special revenue
177 fund in the State Treasury known as the Alabama Behavior
178 Analyst Licensing Board Fund. All receipts collected by the
179 board pursuant to this chapter shall be deposited into this
180 fund and used to the credit of the board for its operation and
181 to carry out this chapter. Receipts shall be disbursed only by
182 warrant of the Comptroller drawn upon the State Treasury upon
183 itemized vouchers approved by the chair."

184 Section 4. The Legislature concurs in the
185 recommendations of the Sunset Committee as provided in
186 Sections 1, 2, and 3.

187 Section 5. This act shall become effective June 1,
188 2024.