

SB113 ENROLLED



1 SB113

2 CXCA4QQ-3

3 By Senator Elliott

4 RFD: Fiscal Responsibility and Economic Development

5 First Read: 13-Jan-26



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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 operating within the Department of Mental
7 Health in collaboration with the Department of Rehabilitation
8 Services, with certain modifications; to amend Sections
9 34-5A-1, 34-5A-2, 34-5A-3, 34-5A-4, 34-5A-5, 34-5A-6, and
10 34-5A-7, Code of Alabama 1975, to rename the board as the
11 Alabama Behavior Analyst Advisory Council; to provide the
12 Department of Mental Health with regulatory authority over
13 licensed behavior analysts and licensed assistant behavior
14 analysts practicing behavior analysis under the former board;
15 to require the advisory council to advise the department on
16 matters relating to the practice of behavior analysis; to
17 provide for the duties of the department and the Mental Health
18 Commissioner relating to the advisory council; to require the
19 department to provide all necessary administrative services
20 for the advisory council; to transfer all property of the
21 advisory council to the department; and to repeal Section
22 34-5A-8, Code of Alabama 1975, to remove the former board from
23 review by the Sunset Committee.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Pursuant to the Alabama Sunset Law, the
26 Sunset Committee recommends the continuance of the Alabama
27 Behavior Analyst Licensing Board operating within the
28 Department of Mental Health with the additional



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29 recommendations for statutory change as set out in Sections 3
30 and 4.

31 Section 2. The existence and functioning of the Alabama
32 Behavior Analyst Licensing Board, created and functioning
33 pursuant to Sections 34-5A-1 to 34-5A-7, inclusive, Code of
34 Alabama 1975, is continued, and those code sections are
35 expressly preserved.

36 Section 3. Sections 34-5A-1, 34-5A-2, 34-5A-3, 34-5A-4,
37 34-5A-5, 34-5A-6, and 34-5A-7 of the Code of Alabama 1975, are
38 amended to read as follows:

39 "§34-5A-1

40 For the purposes of this chapter, the following terms
41 ~~shall~~ have the following meanings:

42 (1) ADVISORY COUNCIL. The Alabama Behavior Analyst
43 Advisory Council created by this chapter.

44 ~~(1)(2)~~ (2) APPLIED BEHAVIOR ANALYSIS DIRECT CONTACT
45 TECHNICIAN. An individual who directly implements applied
46 behavior analysis services.

47 ~~(2) BOARD. The Alabama Behavior Analyst Licensing Board~~
48 ~~charged with overseeing the regulation of behavior analyst~~
49 ~~professionals.~~

50 (3) AUTISM. Autism Spectrum Disorder is a neurological
51 and developmental disorder that affects how people interact
52 with others, communicate, learn, and behave.

53 ~~(3)(4)~~ (4) CERTIFYING ENTITY. The nationally accredited
54 Behavior Analyst Certification Board, Incorporated.

55 (5) DEPARTMENT. The Department of Mental Health.

56 (6) DRS. The Department of Rehabilitation Services.



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57 ~~(4)~~ (7) LICENSED ASSISTANT BEHAVIOR ANALYST. An
58 individual who is certified by the certifying entity as a
59 national board certified assistant behavior analyst and who
60 satisfies the criteria identified in Section 34-5A-4.

61 ~~(5)~~ (8) LICENSED BEHAVIOR ANALYST. An individual who is
62 certified by the certifying entity as a national board
63 certified behavior analyst and who satisfies the criteria
64 identified in Section 34-5A-4.

65 (9) MENTAL HEALTH COMMISSIONER. The executive officer
66 of the Department of Mental Health.

67 ~~(6)~~ (10) PRACTICE OF BEHAVIOR ANALYSIS. The design,
68 implementation, and evaluation of instructional and
69 environmental modifications to produce socially significant
70 improvements in human behavior.

71 a. The practice of behavior analysis includes all of
72 the following:

73 1. The empirical identification of functional relations
74 between behavior and environmental factors, known as
75 functional assessment and analysis.

76 2. Interventions based on scientific research and the
77 direct observation and measurement of behavior and
78 environment, which utilize contextual factors, establishing
79 operations, antecedent stimuli, positive reinforcement, and
80 other consequences to help individuals develop new behaviors,
81 increase or decrease existing behaviors, and elicit behaviors
82 under specific environmental conditions.

83 b. The practice of behavior analysis does not include
84 psychological testing, psychotherapy, cognitive therapy, sex



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85 therapy, psychoanalysis or hypnotherapy, or long-term
86 counseling as treatment modalities.

87 c. The practice of behavior analysis does not include
88 preventing or alleviating or curing of diseases or injuries.

89 d. Nothing in this chapter shall be construed as
90 permitting or allowing a licensed behavior analyst to
91 prescribe or administer any drug, make a medical diagnosis,
92 provide medical treatment, or manage a medical condition. A
93 licensed behavior analyst may not attempt to diagnose,
94 prescribe for, treat, or advise a client with reference to any
95 problem, complaint, or condition falling outside the
96 boundaries of behavior analysis."

97 "§34-5A-2

98 (a) The unlicensed practice of behavior analysis is
99 prohibited in this state, unless exempted in subsection (c).

100 (b) No ~~person~~ individual shall hold himself or herself
101 out to be a licensed behavior analyst or licensed assistant
102 behavior analyst unless he or she satisfies the applicable
103 requirements of this chapter.

104 (c) This chapter may not be construed as prohibiting or
105 restricting the practice of any of the following:

106 (1) An individual authorized to practice psychology
107 within the state.

108 (2) An applied behavior analysis direct contact
109 technician, or family member implementing a behavior analysis
110 plan within the home or other environment in which the ~~person~~
111 individual is located, who acts under the extended authority
112 and direction of a licensed behavior analyst or a licensed



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113 assistant behavior analyst.

114 (3) A behavior analyst who practices with nonhuman or
115 nonpatient clients or consumers including, but not limited to,
116 applied animal behaviorists and practitioners of
117 organizational behavior management.

118 (4) A licensed physician who is practicing medicine.

119 (5) A licensed professional authorized to practice in
120 the state who is not a behavior analyst, so long as the
121 licensed professional does not represent that he or she is a
122 behavior analyst, and so long as the services of the licensed
123 professional are within the scope of practice of the licensing
124 law governing the licensed professional and the services
125 performed are commensurate with the education, training, and
126 experience of the licensed professional.

127 (6) A matriculated graduate student or postdoctoral
128 fellow whose activities are part of a defined behavior
129 analysis program of study, practicum, or intensive practicum,
130 provided that the practice under this exemption is directly
131 supervised by a licensed behavior analyst in this state or an
132 instructor in a course sequence approved by the certifying
133 entity.

134 (7) An unlicensed individual pursuing experience in
135 behavior analysis consistent with the experience requirements
136 of the certifying entity, provided ~~such~~ the experience is
137 supervised by a licensed behavior analyst in this state.

138 (d) A violation of this section shall be punishable by
139 a fine of not more than one thousand dollars (\$1,000) or the
140 suspension or revocation of a license issued pursuant to this



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141 chapter, or both fine and loss of ~~licensure~~ licensing."

142 "§34-5A-3

143 (a) (1) ~~The~~ Commencing on the effective date of the act
144 adding this amendatory language, the Alabama Behavior Analyst
145 Licensing Board ~~is~~ established within the Department of Mental
146 Health, Division of Developmental Disabilities is renamed the
147 Alabama Behavior Analyst Advisory Council. The purpose of the
148 advisory council is to advise the department on all matters
149 pertaining to the protection of the health, safety, and
150 welfare of the public relating to licensed behavior analysts,
151 licensed assistant behavior analysts, and the practice of
152 behavior analysis. All members serving on the Alabama Behavior
153 Analyst Licensing Board on the effective date of the act
154 adding this amendatory language shall continue to serve as
155 members of the Alabama Behavior Analyst Advisory Council until
156 the expiration of their terms.

157 (2) Commencing on the effective date of the act adding
158 this amendatory language, all rights, duties, records,
159 property, real or personal, and all other effects existing in
160 the name of the Alabama Behavior Analyst Licensing Board, or
161 in any other name by which that board has been known, shall
162 transfer to the department. Any reference to the former
163 Alabama Behavior Analyst Licensing Board, or any other name by
164 which that board has been known, in any existing law,
165 contract, or other instrument shall constitute a reference to
166 the Alabama Behavior Analyst Advisory Council as created in
167 this chapter. All actions of the former Alabama Behavior
168 Analyst Licensing Board or the executive director of the



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169 former board taken before the effective date of the act adding
170 this amendatory language, are approved, ratified, and
171 confirmed.

172 (3) The status of any individual or entity properly
173 licensed, accredited, or registered by the former Alabama
174 Behavior Analyst Licensing Board on the effective date of the
175 act adding this amendatory language, shall continue under the
176 jurisdiction of the department.

177 (4) The department shall provide all of the following
178 for the performance of the duties of the ~~board~~ advisory
179 council:

180 a. Financial services.

181 b. Legal services.

182 c. Dedicated office space within the office of the
183 State Autism Coordinator.

184 d. An administrative assistant who is shared or
185 dedicated to the ~~board~~ advisory council, and other personnel
186 as necessary for the efficient operation of the ~~board~~ advisory
187 council.

188 e. Information technology services that shall include
189 one or more dedicated phone lines, dedicated email addresses
190 for ~~board~~ advisory council members and staff, and website
191 maintenance.

192 f. Necessary office furniture and supplies.

193 ~~(2)~~ (b) The ~~board~~ advisory council shall consist of
194 seven members, including four licensed behavior analysts, one
195 licensed psychologist in the state, one parent or legal
196 guardian of an individual who has been or is being treated for



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197 a behavior disorder, or an individual who has received
198 services from a licensed behavior analyst, and one public
199 member, who, ~~except for the initial members,~~ shall be
200 appointed by the ~~Governor,~~ as provided in subsection (b)
201 Mental Health Commissioner. The ~~appointing authority~~ Mental
202 Health Commissioner shall coordinate his or her appointments
203 to assure the ~~board~~ advisory council membership is inclusive
204 and reflects the racial, gender, geographic, urban, rural, and
205 economic diversity of the state. Each member of the advisory
206 council shall serve a three-year term, with initial terms
207 being staggered so that one member serves an initial term of
208 one year, three members serve initial terms of two years, and
209 three members serve initial terms of three years, as provided
210 by the Mental Health Commissioner ~~of the Department of Mental~~
211 ~~Health~~. The public member shall be an individual who is not
212 and never was a member of any profession licensed or regulated
213 under this chapter, or the spouse of the individual, and who
214 does not have and never has had a material interest in the
215 practice of behavior analysis.

216 ~~(b) The initial members of the board shall be board~~
217 ~~certified behavior analysts, as recognized by the certifying~~
218 ~~entity, and shall each become licensed as a behavior analyst~~
219 ~~or assistant behavior analyst, pursuant to this chapter,~~
220 ~~during his or her initial term serving on the board. These~~
221 ~~initial board members shall be appointed by the Commissioner~~
222 ~~of the Department of Mental Health upon recommendations~~
223 ~~submitted by the Alabama Association for Behavior Analysis,~~
224 ~~the Alabama Interagency Autism Coordinating Council, the~~



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225 ~~Department of Mental Health, and any other group determined~~
226 ~~appropriate by the commissioner. Subsequent appointments shall~~
227 ~~be appointed by the Governor upon recommendations submitted by~~
228 ~~the board.~~

229 (c) Any vacancy occurring other than by expiration of
230 terms shall be filled for the remainder of the unexpired term
231 by appointment by the ~~Governor~~ Mental Health Commissioner,
232 upon recommendation of the ~~board~~ advisory council.

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

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

237 (f) Members shall be paid out of the funds of the ~~board~~
238 department the same per diem as prescribed by law for state
239 employees for each day of attendance of ~~board~~ advisory council
240 business.

241 (g) The ~~board~~ advisory council shall meet at least
242 ~~twice annually~~ quarterly and may meet at other times as
243 necessary, at the call of the chair or by a majority of the
244 members of the advisory council, to complete the business
245 required. Members of the advisory council may participate in a
246 regular meeting of the board by means of telephone conference,
247 video conference, or similar communications equipment pursuant
248 to the Alabama Open Meetings Act, Chapter 25A of Title 36.

249 (h) ~~The board shall adopt and enforce rules and~~
250 ~~establish fees necessary to implement this chapter. The~~
251 department shall adopt and revise rules pursuant to the
252 Administrative Procedure Act as necessary for the department



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253 to implement this chapter. All administrative rules of the
254 former Alabama Behavior Analyst Licensing Board existing on
255 the effective date of the act adding this amendatory language,
256 which reference this chapter, unless in conflict with existing
257 law, shall remain in effect as rules of the Alabama Behavior
258 Analyst Advisory Council until amended or repealed by the
259 department.

260 (i) ~~The board~~ department shall investigate all
261 complaints relating to the practice of behavior analysis by
262 any licensed behavior analyst, licensed assistant behavior
263 analyst, or any individual alleged to be practicing or
264 providing supervision without a state license.

265 (1) ~~The board~~ department may fine, censure, revoke or
266 deny a license, place on probation, reprimand, or otherwise
267 discipline a licensee on any of the following grounds:

268 a. Conviction of a crime that ~~the board~~ department, by
269 rule, determines to be of a nature as to render the individual
270 convicted unfit to practice as a behavior analyst.

271 b. Violation of the professional and ethical compliance
272 code or the rules ~~of the board~~ adopted pursuant to this
273 chapter.

274 c. Fraud or misrepresentation in obtaining a license.

275 (2) ~~The board~~ Mental Health Commissioner may summarily
276 suspend the license of a licensee who ~~the board~~ Mental Health
277 Commissioner determines poses an imminent danger to the
278 public. A hearing shall be held within 10 days after the
279 suspension to determine whether the summary action was
280 warranted.



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281 (3) No license may be denied, suspended, or revoked or
282 an individual otherwise disciplined without prior notice and
283 opportunity for hearing, except that the ~~board~~ Mental Health
284 Commissioner, without prior notice of hearing, may take action
285 against any individual convicted of a crime listed in
286 paragraph (1)a. No license may be denied, suspended, or
287 revoked or an individual otherwise disciplined by the Mental
288 Health Commissioner pursuant to this section ~~except by vote of~~
289 ~~a majority of the membership of the board~~ without a
290 recommendation from the advisory council.

291 (4) Any person may file a complaint with the ~~board~~
292 Mental Health Commissioner seeking the denial, suspension, or
293 revocation of a license issued or pending issuance by the
294 ~~board~~ department, or seeking to otherwise discipline an
295 individual for any violation of this chapter or rules adopted
296 ~~by the board~~ pursuant to this chapter. Complaints shall be in
297 a form prescribed by the ~~board~~ Mental Health Commissioner. If
298 the ~~board~~ Mental Health Commissioner determines that a
299 complaint alleges facts that, if true, would require
300 disciplinary action or denial, revocation, or suspension of a
301 license, the ~~board~~ Mental Health Commissioner shall promptly
302 institute a hearing. If the ~~board~~ advisory council determines
303 that a complaint does not allege facts that warrant a hearing,
304 the complaint may be dismissed by the ~~board~~ Mental Health
305 Commissioner. The ~~board~~ Mental Health Commissioner, ~~on its~~ his
306 or her own motion, may institute a hearing for disciplinary
307 action or for the denial, suspension, or revocation of a
308 license.



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309 (5) Any individual whose license has been suspended or
310 revoked may apply to the ~~board~~ Mental Health Commissioner for
311 vacation of the suspension or reinstatement of his or her
312 license.

313 (j) Upon finding that an individual governed by this
314 chapter has practiced as a behavior analyst, advertised that
315 he or she performs as a behavior analyst, or utilized a title
316 or description denoting that he or she is a behavior analyst
317 without first having obtained a license, the ~~board~~ Mental
318 Health Commissioner may do any of the following:

319 (1) Impose an administrative fine.

320 (2) Issue a cease and desist order.

321 (3) Petition the circuit court of the county where the
322 act occurred to enforce the cease and desist order and collect
323 the assessed fine.

324 (k) A majority of the membership of the ~~board~~ advisory
325 council shall constitute a quorum.

326 (l) The ~~board~~ advisory council shall elect a chair from
327 among its membership on an annual basis.

328 (m) ~~There is established a~~ Commencing on the effective
329 date of the act adding this amendatory language, the name of
330 the separate special revenue fund in the State Treasury known
331 as the Alabama Behavior Analyst Licensing Board Fund shall be
332 renamed and then known as the Alabama Behavior Analyst
333 Advisory Council Fund. All receipts collected by the ~~board~~
334 department pursuant to this chapter shall be deposited into
335 this fund and used ~~to the credit of the board for its~~
336 ~~operation and~~ by the department to carry out this chapter.



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337 Receipts shall be disbursed only by warrant of the Comptroller
338 ~~drawn upon the State Treasury upon itemized vouchers approved~~
339 ~~by the chair.~~ No funds shall be withdrawn except as budgeted
340 and allotted according to Article 4 of Chapter 4 of Title 41
341 and Chapter 19 of Title 41, and only in amounts as stipulated
342 in the general appropriations bill or other appropriations
343 bills.

344 (n) The department may collaborate and partner with the
345 DRS to implement this chapter."

346 "§34-5A-4

347 ~~Each person~~ individual desiring to obtain a license
348 shall submit an application and authorized fees to the ~~board~~
349 Mental Health Commissioner. The application shall include
350 evidence demonstrating that the applicant satisfies all of the
351 following requirements:

352 (1) Is of good moral character and conducts his or her
353 professional activities in accordance with accepted
354 professional and ethical standards, including:

355 a. Compliance with the professional and ethical
356 compliance code for behavior analysts of the certifying
357 entity.

358 b. Completion of a criminal background check pursuant
359 ~~to rule of the board~~ rules adopted pursuant to this chapter.
360 The cost of the criminal background check shall be paid by the
361 applicant. An applicant shall submit to the ~~board~~ Mental
362 Health Commissioner two complete sets of fingerprints and a
363 form, sworn to by the applicant, containing his or her name,
364 date of birth, and Social Security number for completion of



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365 the criminal background check. The ~~board~~ Mental Health
366 Commissioner shall submit the fingerprints and form to the
367 State Bureau of Investigations, or any entity contracted with
368 for the purposes of furnishing criminal background checks, for
369 a state criminal history record check. The ~~board~~ Mental Health
370 Commissioner shall keep information received pursuant to this
371 section confidential, except that any information received and
372 relied upon in denying the issuance of a license in this state
373 may be disclosed if necessary to support the denial.

374 (2) In addition to satisfying the requirements of
375 subdivision (1), a licensed behavior analyst applicant shall
376 also maintain active status as a national board certified
377 behavior analyst, as recognized by the certifying entity,
378 following passage of the national board certified behavior
379 analyst examination.

380 (3) In addition to satisfying the requirements of
381 subdivision (1), a licensed assistant behavior analyst
382 applicant shall also do all of the following:

383 a. Maintain active status as a national board certified
384 assistant behavior analyst, as recognized by the certifying
385 entity, following passage of the national board certified
386 assistant behavior analyst examination.

387 b. Provide proof of ongoing supervision by a licensed
388 behavior analyst who is a current national board certified
389 behavior analyst in a manner consistent with the requirements
390 of the certifying entity for supervision of national board
391 certified assistant behavior analysts."

392 "§34-5A-5



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393 A licensed or unlicensed national board certified
394 behavior analyst or national board certified assistant
395 behavior analyst residing and practicing in another state who
396 temporarily provides behavior analysis services in this state
397 or to a resident of this state, or both, may apply for a
398 temporary license to practice behavior analysis in this state.
399 A temporary license is available only if the behavior analysis
400 services are to be delivered during a limited and defined
401 period, as defined by ~~board~~ rule."

402 "§34-5A-6

403 The ~~board~~ department shall issue a license to ~~a person~~
404 an individual who is actively licensed as a behavior analyst
405 in another state that currently imposes comparable ~~licensure~~
406 licensing requirements as those imposed in this state and that
407 offers reciprocity to individuals licensed under this chapter.
408 An applicant for reciprocity shall submit proof of ethical
409 compliance, including proof of current ~~licensure~~ licensing and
410 current certification by the certifying entity, along with any
411 other eligibility requirements, such as satisfactory passage
412 of a criminal background check."

413 "§34-5A-7

414 (a) A license shall be granted for a period of two
415 years and shall expire on December 31 in the second year.
416 Before the expiration of a license, the license may be renewed
417 upon submission of an application for renewal, including proof
418 of continued certification by the certifying entity and
419 payment of the renewal fee imposed by the ~~board~~ department.

420 (b) All licenses issued pursuant to this chapter shall



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421 be subject to renewal and shall expire unless renewed in the
422 manner prescribed by the rules ~~of the board~~ adopted pursuant
423 to this chapter and upon the payment of a renewal fee. The
424 ~~board~~ department may provide for a late renewal of a license
425 upon payment of a late renewal fee if all conditions for
426 renewal have been satisfied and upon payment of a late renewal
427 fee. Any license which has not been renewed within two years
428 following its expiration may not be renewed, restored, or
429 reissued thereafter. The holder of an expired license may
430 apply for and obtain a valid license only upon compliance with
431 all relevant requirements for issuance of a new license.

432 (c) A suspended license is subject to expiration and
433 may be renewed as provided in this section. Renewal of a
434 suspended license does not entitle the applicant, while the
435 license remains suspended and until it is reinstated, to
436 engage in licensed activity or in other conduct or activity in
437 violation of a license revoked on disciplinary grounds. Except
438 as otherwise provided in this chapter, a licensed behavior
439 analyst or licensed assistant behavior analyst who desires to
440 return to the active practice of applied behavior analysis
441 shall submit an application for reinstatement and shall pay
442 the nonrefundable reinstatement fee, and any late fee or
443 penalty fees that may be applicable. The amount of the
444 reinstatement fee and penalty shall be established by ~~the rule~~
445 ~~of the board~~. The applicant shall meet the same requirements
446 ~~as were~~ are necessary for initial licensure."

447 Section 4. Section 34-5A-8, Code of Alabama 1975,
448 subjecting the Alabama Behavior Analyst Licensing Board to the



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449 Alabama Sunset Law of 1981, is repealed.

450 Section 5. The Legislature concurs in the
451 recommendations of the Sunset Committee as provided in
452 Sections 1, 2, 3, and 4.

453 Section 6. This act shall become effective immediately.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB113

Senate 05-Feb-26

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 19-Feb-26

Senate concurred in House amendment 19-Feb-26

By: Senator Elliott