

1 State of Arkansas  
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4

As Engrossed: H2/22/23 S4/4/23

# A Bill

HOUSE BILL 1189

5 By: Representative Clowney  
6 By: Senators K. Hammer, *Irvin*  
7

## For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS BEHAVIOR ANALYST  
10 LICENSURE ACT; AND FOR OTHER PURPOSES.  
11

## Subtitle

14 TO CREATE THE ARKANSAS BEHAVIOR ANALYST  
15 LICENSURE ACT.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code Title 17, Subchapter 97, is amended to add an  
21 additional subchapter to read as follows:

22 Subchapter 6 – Behavior Analysts  
23

24 17-97-601. Title.

25 This subchapter shall be known and may be cited as the "Arkansas  
26 Behavior Analyst Licensure Act".  
27

28 17-97-602. Definitions.

29 As used in this subchapter:

30 (1) "Behavior technician" means a paraprofessional who:

31 (A) Practices under the close, ongoing supervision of a  
32 licensed behavior analyst;

33 (B) Does not design assessment or intervention plans or  
34 procedures; and

35 (C) Delivers services as assigned by his or her  
36 supervisor;



1           (2) "Licensed behavior analyst" means an individual who is  
2 licensed to practice behavior analysis independently by the Arkansas  
3 Psychology Board under this subchapter; and

4           (3)(A) "Practice of applied behavior analysis" means the design,  
5 implementation, and evaluation of instructional and environmental  
6 modifications to produce socially significant improvements in human behavior,  
7 including:

8                   (i) The empirical identification of functional  
9 relations between behavior and environmental factors, known as functional  
10 assessment and analysis; and

11                   (ii) Applied behavior analysis interventions based  
12 on scientific research and direct and indirect observation and measurement of  
13 behavior and environment which utilize contextual factors, motivating  
14 operations, antecedent stimuli, positive reinforcement, and other procedures  
15 to help individuals develop new behaviors, increase or decrease existing  
16 behaviors, and emit behaviors under specific environmental conditions.

17                   (B) "Practice of applied behavior analysis" does not  
18 include diagnosis of disorders, psychotherapy, cognitive therapy,  
19 psychoanalysis, or counseling.

20  
21           17-97-603. Unlawful practice of applied behavior analysis.

22           (a) Unless licensed under this subchapter or exempt under § 17-97-604,  
23 a person shall not:

24                   (1) Hold himself or herself out to be a licensed behavior  
25 analyst;

26                   (2) Use any combination or abbreviation of the term "licensed  
27 behavior analyst" to indicate or imply that he or she is a licensed behavior  
28 analyst; or

29                   (3) Perform the practice of applied behavior analysis.

30           (b)(1) A person found to be in violation of this subchapter is subject  
31 to a fine of no less than five hundred dollars (\$500).

32                   (2) A person licensed under this subchapter who violates this  
33 subchapter is subject to administrative sanctions and penalties, including  
34 without limitation revocation of his or her license.

35  
36           17-97-604. Exemptions.

1 This subchapter does not prohibit or restrict the practice of any of  
2 the following:

3 (1) An individual licensed to practice psychology in this state  
4 and an individual who delivers psychological services under his or her  
5 supervision if the:

6 (A) Applied behavior analysis services provided are within  
7 the boundaries of the licensed psychologist's education, training,  
8 competence, and scope of practice; and

9 (B) Licensed psychologist does not represent that he or  
10 she is a licensed behavior analyst unless he or she is also licensed under  
11 this subchapter;

12 (2) An individual licensed to practice other professions in this  
13 state and an individual who delivers services under his or her supervision,  
14 if the:

15 (A) Applied behavior analysis services provided are within  
16 the boundaries of the licensed professional's education, training,  
17 competence, and scope of practice; and

18 (B) Licensed professional does not represent that he or  
19 she is a licensed behavior analyst unless he or she is also licensed under  
20 this subchapter;

21 (3)(A) A behavior technician who delivers applied behavior  
22 analysis services under the extended authority and direction of a licensed  
23 behavior analyst.

24 (B) A behavior technician shall not represent themselves  
25 as a professional behavior analyst and shall use titles that indicate their  
26 nonprofessional status, such as "ABA technician", "behavior technician", or  
27 "tutor";

28 (4)(A) A caregiver of a recipient of applied behavior analysis  
29 services who delivers those services to the recipient under the extended  
30 authority and direction of a licensed behavior analyst.

31 (B) An individual under subdivision (4)(A) of this section  
32 shall not represent himself or herself as a "professional behavior analyst";

33 (5)(A) A behavior analyst who practices with nonhumans,  
34 including applied animal behaviorists and animal trainers.

35 (B) An individual described under subdivision (5)(A) of  
36 this section may use the title "behavior analyst" but shall not represent

1 himself or herself as a licensed behavior analyst unless licensed under this  
2 subchapter;

3 (6)(A) A professional who provides general applied behavior  
4 analysis services to organizations if those services are for the benefit of  
5 the organizations and do not involve direct services to individuals.

6 (B) An individual described under subdivision (6)(A) of  
7 this section may use the title "behavior analyst" but shall not represent  
8 himself or herself as a licensed behavior analyst unless licensed under this  
9 subchapter;

10 (7)(A) A matriculated college or university student or  
11 postdoctoral fellow whom applied behavior analysis activities are part of a  
12 defined program of study, course, practicum, internship, or fellowship and  
13 are directly supervised by a licensed behavior analyst in this state or a  
14 qualified faculty member.

15 (B) An individual described under subdivision (7)(A) of  
16 this section shall not represent themselves as professional behavior analysts  
17 and shall use titles that clearly indicate their trainee status, such as  
18 "student", "intern", or "trainee";

19 (8)(A) An individual who teaches behavior analysis or conduct  
20 behavior-analytic research if the activities do not involve the direct  
21 delivery of applied behavior analysis services beyond the typical parameters  
22 of applied research.

23 (B) An individual described under subdivision (9)(A) of  
24 this section may use the title "behavior analyst" but shall not represent  
25 himself or herself as a licensed behavior analyst unless licensed under this  
26 subchapter;

27 (9) A behavior analyst licensed in another jurisdiction to  
28 practice independently and who practice in this state for no more than twelve  
29 (12) weeks within a calendar year upon approval of a temporary license; or

30 (10)(A) An individual employed by a school district performing  
31 the duties of his or her positions.

32 (B) An individual described under subdivision (11)(A) of  
33 this section shall not:

34 (i) Represent himself or herself as a licensed  
35 behavior analyst unless licensed under this subchapter; or

36 (ii) Offer applied behavior analysis services to any

1 persons or entities other than his or her school employer or accept  
2 remuneration for providing applied behavior analysis services other than the  
3 remuneration he or she receives from his or her school employer.

4  
5 17-97-605. Licensure.

6 Each applicant for licensure as a licensed behavior analyst shall  
7 submit to the Arkansas Psychology Board:

8 (1) An application;

9 (2) Appropriate application fees as determined by the Arkansas  
10 Psychology Board;

11 (3) Evidence that the applicant has successfully completed a  
12 criminal background check; and

13 (4) Evidence of his or her current certification as a board-  
14 certified behavior analyst or a board-certified behavior analyst-doctoral  
15 verified by the board.

16  
17 17-97-606. Expiration and renewal.

18 (a) A license under this subchapter shall be granted for a period of  
19 two (2) years.

20 (b) Before expiration of a license, the license may be renewed upon  
21 submission of:

22 (1) A renewal application;

23 (2) Appropriate renewal fees determined by the Arkansas  
24 Psychology Board; and

25 (3) Evidence of verification of current certification.

26  
27 17-97-607. Temporary license.

28 (a) A behavior analyst licensed in another jurisdiction or who holds  
29 current certification as a board-certified behavior analyst, board-certified  
30 behavior analyst-doctoral, board-certified assistant behavior analyst, or  
31 equivalent, issued by the Behavior Analyst Certification Board, Inc., or its  
32 equivalent approved by the Arkansas Psychology Board to practice  
33 independently who provides applied behavior analysis services in this state  
34 on a short-term basis may apply for a temporary license.

35 (b) An applicant for a temporary license shall submit an application  
36 and fee established by the Arkansas Psychology Board and evidence that their

1 practice in the jurisdiction will be temporary as defined by the Arkansas  
2 Psychology Board in rules.

3 (c) A temporary license shall be granted only if the Arkansas  
4 Psychology Board verifies the applicant's licensure or certification status  
5 with the relevant entity.

6  
7 17-97-608. Reciprocity.

8 (a) The Arkansas Psychology Board may issue a license to a person who  
9 is currently licensed as a behavior analyst in good standing in another  
10 jurisdiction that imposes licensure requirements comparable to those  
11 specified in this subchapter, including holding current certification as a  
12 board-certified behavior analyst or a board-certified behavior analyst-  
13 doctoral or equivalent, issued by the Behavior Analyst Certification Board or  
14 its equivalent.

15 (b) An applicant for reciprocal licensure under this section shall  
16 have current licensure verified by the board and comply with other  
17 requirements under § 17-97-605.

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19 17-97-609. Regulation by Arkansas Psychology Board.

20 (a) The Arkansas Psychology Board shall administer the provisions of  
21 this subchapter under such procedures as it considers advisable and may adopt  
22 rules that are reasonable and necessary to implement the provisions of this  
23 subchapter.

24 (b) The Arkansas Psychology Board may adopt the Ethics Code for  
25 Behavior Analysts issued by the Behavior Analyst Certification Board, Inc.,  
26 as existing on January 1, 2023.

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28 *SECTION 2. Arkansas Code § 17-97-201(a)(3), concerning the creation*  
29 *and members of the Arkansas Psychology Board, is amended to add an additional*  
30 *subdivision to read as follows:*

31 (D) At least two (2) of the members appointed under  
32 subdivision (a)(2) of this section shall be licensed psychologists who are  
33 board-certified behavior analysts.

34  
35 /s/Clowney  
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