



January 7, 2020

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## SENATE BILL No. 172

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DIGEST OF SB 172 (Updated January 6, 2020 12:50 pm - DI 133)

**Citations Affected:** IC 25-0.5; IC 25-41; IC 25-43; IC 35-52.

**Synopsis:** Licensure of behavior analysts. Provides for the licensure of behavior analysts and assistant behavior analysts. Requires a behavior analyst or an assistant behavior analyst to be certified by an approved certifying entity. Prohibits a person who is not licensed or exempt from licensing from practicing behavior analysis. Establishes penalties. Repeals current law that prohibits the use of certain titles unless the person is certified as a behavior analyst or assistant behavior analyst. Makes conforming changes.

**Effective:** July 1, 2020.

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## Charbonneau

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January 6, 2020, read first time and referred to Committee on Rules and Legislative Procedure. Amended; reassigned to Committee on Commerce and Technology.

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SB 172—LS 6054/DI 13





January 7, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## SENATE BILL No. 172

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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, 2020]: **Sec. 2.7. IC 25-1-1.1-4 applies to an**  
4 **individual licensed under IC 25-43 (behavior analysts and assistant**  
5 **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, 2020]: **Sec. 36. IC 25-1-2-2.1 applies to licenses held by behavior**  
9 **analysts and assistant behavior analysts.**

10 SECTION 3. IC 25-0.5-3-43 IS ADDED TO THE INDIANA CODE  
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2020]: **Sec. 43. IC 25-1-2-6(b) applies to the Indiana behavior**  
13 **analyst licensing board.**

14 SECTION 4. IC 25-0.5-5-22 IS ADDED TO THE INDIANA CODE  
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
16 1, 2020]: **Sec. 22. The Indiana professional licensing agency shall**  
17 **perform administrative functions, duties, and responsibilities for**

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1 the Indiana behavior analyst licensing board (IC 25-43-2) under  
2 IC 25-1-5-3(a).

3 SECTION 5. IC 25-0.5-6-21 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2020]: **Sec. 21. An individual licensed, certified, registered, or**  
6 **permitted by the Indiana behavior analyst licensing board**  
7 **(IC 25-43-2) is a provider under IC 25-1-5-10.**

8 SECTION 6. IC 25-0.5-8-38 IS ADDED TO THE INDIANA CODE  
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2020]: **Sec. 38. An occupation for which a person is licensed,**  
11 **certified, or registered by the Indiana behavior analyst licensing**  
12 **board (IC 25-43-2) is a regulated occupation under IC 25-1-7.**

13 SECTION 7. IC 25-0.5-9-38 IS ADDED TO THE INDIANA CODE  
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
15 1, 2020]: **Sec. 38. The Indiana behavior analyst licensing board**  
16 **(IC 25-43-2) is a board under IC 25-1-8.**

17 SECTION 8. IC 25-0.5-10-35 IS ADDED TO THE INDIANA  
18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2020]: **Sec. 35. The Indiana behavior analyst**  
20 **licensing board (IC 25-43-2) is a board under IC 25-1-8-6.**

21 SECTION 9. IC 25-0.5-11-20 IS ADDED TO THE INDIANA  
22 CODE AS A NEW SECTION TO READ AS FOLLOWS  
23 [EFFECTIVE JULY 1, 2020]: **Sec. 20. The Indiana behavior analyst**  
24 **licensing board (IC 25-43-2) is a board under IC 25-1-9.**

25 SECTION 10. IC 25-41 IS REPEALED [EFFECTIVE JULY 1,  
26 2020]. (BEHAVIOR ANALYSTS).

27 SECTION 11. IC 25-43 IS ADDED TO THE INDIANA CODE AS  
28 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
29 2020]:

30 **ARTICLE 43. BEHAVIOR ANALYSTS AND ASSISTANT**  
31 **BEHAVIOR ANALYSTS**

32 **Chapter 1. Purpose; Definitions**

33 **Sec. 1. The definitions in this chapter apply throughout this**  
34 **article.**

35 **Sec. 2. "Assistant behavior analyst" means an individual who:**

36 **(1) is certified by a certifying entity as a board certified**  
37 **assistant behavior analyst; and**

38 **(2) meets the requirements under IC 25-43-3-2.**

39 **Sec. 3. "Behavior analyst" means an individual who:**

40 **(1) is certified by a certifying entity as a board certified**  
41 **behavior analyst; and**

42 **(2) meets the requirements under IC 25-43-3-1.**



1           **Sec. 4. "Behavior technician" means:**

- 2           (1) a paraprofessional who practices under the close, ongoing  
3           supervision of a behavior analyst, assistant behavior analyst,  
4           or health service provider in psychology; or  
5           (2) an individual who is credentialed as a registered behavior  
6           technician by a certifying entity.

7           The term does not include an individual who does design  
8           assessment or intervention plans or procedures unless the  
9           individual delivers services as assigned by the supervisor  
10          responsible for the behavior technician's work.

11          **Sec. 5. "Board" refers to the Indiana behavior analyst licensing**  
12          **board established by IC 25-43-2-1.**

13          **Sec. 6. "Certifying entity" means the Behavior Analyst**  
14          **Certification Board, Inc., or any other entity approved by the**  
15          **board whose programs to credential practitioners of applied**  
16          **behavior analysis are accredited by the National Commission on**  
17          **Certifying Agencies or the American National Standards Institute.**

18          **Sec. 7. (a) "Practice of applied behavior analysis" means the**  
19          **design, implementation, and evaluation of instructional and**  
20          **environmental modifications to produce socially significant**  
21          **improvements in human behavior. The term includes the**  
22          **following:**

- 23          (1) Empirical identification of functional relations between  
24          behavior and environmental factors, known as functional  
25          assessment and analysis.  
26          (2) Applied behavior analysis interventions based on scientific  
27          research and direct and indirect observation and  
28          measurement of behavior and environment.  
29          (3) Use of contextual factors, motivating operations,  
30          antecedent stimuli, positive reinforcement, and other  
31          procedures to help individuals develop new behaviors,  
32          increase or decrease existing behaviors, and emit behaviors  
33          under specific environmental conditions.

34          **(b) The term does not include the following:**

- 35          (1) Psychological testing.  
36          (2) Diagnosis of mental or physical disorders.  
37          (3) Psychotherapy.  
38          (4) Cognitive therapy.  
39          (5) Psychoanalysis.  
40          (6) Counseling.

41          **Chapter 2. Board**

42          **Sec. 1. The Indiana behavior analyst licensing board is**



1 established.

2 **Sec. 2. The board shall do the following:**

3 (1) Issue licenses to individuals who meet the requirements  
4 specified in this article.

5 (2) Adopt rules under IC 4-22-2.

6 (3) Establish fees necessary to implement this article that  
7 comply with the requirements under IC 25-1-8-2.

8 (4) Subject to IC 25-1-7, investigate complaints relating to the  
9 practice of applied behavior analysis by a behavior analyst,  
10 assistant behavior analyst, or other person alleged to have  
11 violated this article.

12 **Sec. 3. (a) The board consists of five (5) voting members**  
13 **appointed by the governor as follows:**

14 (1) Three (3) board certified behavior analysts who are  
15 licensed under this article.

16 (2) One (1) board certified assistant behavior analyst who is  
17 licensed under this article.

18 (3) One (1) public member:

19 (A) who is not and has not been a professional behavior  
20 analyst;

21 (B) whose spouse is not and has not been a professional  
22 behavior analyst; and

23 (C) who does not have and has not had a material financial  
24 interest in the practice of applied behavior analysis.

25 (b) The Hoosier Association for Behavior Analysis and any  
26 other group considered appropriate by the governor may submit  
27 nominations to the governor.

28 (c) The terms and vacancies of members shall be filled as  
29 follows:

30 (1) A vacancy occurring other than by expiration of a term  
31 shall be filled for the remainder of the unexpired term by  
32 appointment by the governor upon recommendation of the  
33 board.

34 (2) The governor shall appoint members who reflect the  
35 racial, gender, geographic, urban, rural, and economic  
36 diversity of Indiana.

37 (3) The term of a member is four (4) years.

38 (4) A member may not serve more than two (2) successive  
39 four (4) year terms.

40 (5) Subject to IC 25-1-6.5-2, a member shall serve until a  
41 successor is appointed and qualified.



1 (d) Each member of the board who is not a state employee is  
 2 entitled to the minimum salary per diem provided by  
 3 IC 4-10-11-2.1(b).

4 (e) Notwithstanding subsection (a) and IC 25-1-6.5-2(b), the  
 5 initial terms for members of the board appointed under this section  
 6 begin on July 1, 2020, and are as follows:

7 (1) For one (1) member appointed under subsection (a)(1) and  
 8 for the member appointed under subsection (a)(3), a term of  
 9 four (4) years.

10 (2) For the member appointed under subsection (a)(2), a term  
 11 of three (3) years.

12 (3) For one (1) member appointed under subsection (a)(1), a  
 13 term of two (2) years.

14 (4) For one (1) member appointed under subsection (a)(1), a  
 15 term of one (1) year.

16 However, the initial members appointed under this section are not  
 17 required to be licensed under this chapter but must apply for a  
 18 license as soon as feasible. This subsection expires July 1, 2024.

19 Sec. 4. (a) The board:

20 (1) shall meet at least twice annually; and

21 (2) may meet at other times as necessary, at the call of the  
 22 chair or by a majority of the members, to complete any  
 23 required business.

24 (b) Three (3) affirmative votes by members are required for the  
 25 board to take any official action.

26 (c) The board shall elect a chair from among the board's  
 27 membership on an annual basis.

28 Chapter 3. Licenses

29 Sec. 1. An individual who applies for a license as a behavior  
 30 analyst must meet the following requirements:

31 (1) Furnish satisfactory evidence to the board that the  
 32 individual is certified by a certifying entity as a certified  
 33 behavior analyst.

34 (2) Submit to a national criminal history background check  
 35 under IC 25-1-1.1-4 and furnish satisfactory evidence to the  
 36 board that the individual does not have a conviction for a  
 37 crime that has a direct bearing on the individual's ability to  
 38 practice competently.

39 (3) Furnish satisfactory evidence to the board that the  
 40 individual has not been the subject of a disciplinary action by  
 41 a licensing or certification agency of another state or



1 jurisdiction on the grounds that the individual was not able to  
2 practice behavior analysis without endangering the public.

3 (4) Apply for the license in the manner prescribed by the  
4 board.

5 (5) Pay the fee established by the board.

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

8 (1) Furnish satisfactory evidence to the board that the  
9 individual is certified by a certifying entity as a certified  
10 assistant behavior analyst.

11 (2) Submit to a national criminal history background check  
12 under IC 25-1-1.1-4 and furnish satisfactory evidence to the  
13 board that the individual does not have a conviction for a  
14 crime that has a direct bearing on the individual's ability to  
15 practice competently.

16 (3) Furnish satisfactory evidence to the board that the  
17 individual has not been the subject of a disciplinary action by  
18 a licensing or certification agency of another state or  
19 jurisdiction on the grounds that the individual was not able to  
20 practice behavior analysis without endangering the public.

21 (4) Apply for the license in the manner prescribed by the  
22 board.

23 (5) Pay the fee established by the board.

24 (b) An individual who is licensed as an assistant behavior  
25 analyst under this section must be directly supervised by a  
26 behavior analyst who is licensed under this chapter or a health  
27 service provider in psychology.

28 (c) An assistant behavior analyst must annually submit to the  
29 board a written record of the supervision that is provided to the  
30 assistant behavior analyst by a behavior analyst who is licensed  
31 under this chapter or a health service provider in psychology.

32 **Sec. 3. An individual who is licensed under this chapter must  
33 comply with the requirements of the Professional and Ethical  
34 Compliance Code for Behavior Analysts published by a certifying  
35 entity.**

36 **Sec. 4. (a) A license expires on the date established by the  
37 licensing agency under IC 25-1-6-4.**

38 (b) To renew a license under this chapter, an individual:

39 (1) must pay the renewal fee not later than the expiration date  
40 of the license; and

41 (2) submit proof of current certification by a certifying entity.





1           **Sec. 5. This article does not limit the use of applied behavior**  
 2 **analysis techniques by a person who does not use a title specified**  
 3 **in IC 25-43-4-2 and is one (1) of the following:**

4           **(1) A licensed or certified health care professional acting**  
 5 **within the scope of the person's license or certificate and**  
 6 **within the person's training.**

7           **(2) A student, an intern, or a trainee pursuing a course of**  
 8 **study to gain licensure under this chapter in an accredited**  
 9 **eligible postsecondary educational institution or training**  
 10 **institution.**

11           **(3) A person who is not a resident of Indiana, if the person:**

12           **(A) performs the services in Indiana for not more than five**

13           **(5) days in any one (1) month or fifteen (15) days within**  
 14 **any one (1) calendar year; and**

15           **(B) is authorized to perform the services under the laws of**  
 16 **the state or country in which the person resides.**

17           **(4) A behavior technician, or a family member implementing**  
 18 **a plan within the home, who acts under the extended**  
 19 **authority and direction of a behavior analyst or assistant**  
 20 **behavior analyst licensed under this chapter.**

21           **Sec. 6. If the board determines that:**

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

24           **(2) the jurisdiction issuing the license imposes substantially**  
 25 **equal requirements on applicants for the license that are**  
 26 **imposed on applicants for an Indiana license;**

27 **the board may issue a license to the person upon payment of the**  
 28 **licensure fee.**

29           **Chapter 4. Violations**

30           **Sec. 1. An individual who is not:**

31           **(1) licensed under this article; or**

32           **(2) exempt under IC 25-42-3-5;**

33 **may not practice applied behavior analysis.**

34           **Sec. 2. An individual may not:**

35           **(1) profess to be a licensed behavior analyst or licensed**  
 36 **assistant behavior analyst; or**

37           **(2) use the initials "LBA" or "LABA" or any other words,**  
 38 **letters, abbreviations, or insignia indicating or implying that**  
 39 **the individual is a licensed behavior analyst or licensed**  
 40 **assistant behavior analyst;**

41 **unless the individual holds a license under this article.**



1           **Sec. 3. An individual who violates this article commits a Class**  
2           **C infraction.**  
3           SECTION 12. IC 35-52-25-66 IS REPEALED [EFFECTIVE JULY  
4           1, 2020]. ~~Sec. 66. IC 25-41-1-2~~ defines a crime concerning behavior  
5           analysts.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 172, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Commerce and Technology.

(Reference is to SB 172 as introduced.)

BRAY, Chairperson

