



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

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| Bill Number: | H. 3731 | Introduced on January 27, 2021 |
| Author: | Erickson | |
| Subject: | Licensed Behavior Analysts | |
| Requestor: | House Medical, Military, Public, and Municipal Affairs | |
| RFA Analyst(s): | Coomer and Gardner | |
| Impact Date: | August 10, 2021 Updated to Include Additional Agency Impact | |

Fiscal Impact Summary

This bill allows for the regulation and licensure of behavior analysts and assistant behavior analysts under the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists. The overall expenditure impact of the bill on the Department of Labor, Licensing, and Regulation (LLR) is undetermined. However, the bill may increase Other Funds expenditures of LLR by \$58,770 in FY 2021-22 and \$50,988 each year thereafter for the addition of 1.0 FTEs to administer the program and the addition of two board members to the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists. The full impact of this bill on Other Funds expenditures and revenues of LLR is undetermined because the number of applicants who will seek licensure as a behavior analyst or assistant behavior analyst is unknown. Licensure fees borne by applicants are expected to generate the revenue to support any increases in Other Funds expenditures.

This bill is not expected to have an expenditure impact on the State Law Enforcement Division (SLED), as we anticipate that the requirements of the bill can be managed within the normal course of agency business.

This bill may increase General Fund revenue by approximately \$39,300 in FY 2021-22 and by \$3,500 each year thereafter due to fees collected by SLED for state criminal records checks.

This fiscal impact statement has been updated to include an agency impact for SLED.

Explanation of Fiscal Impact

Updated to Include Additional Agency Impact on August 10, 2021

Introduced on January 27, 2021

State Expenditure

This bill allows for the regulation and licensure of behavior analysts and assistant behavior analysts under the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists (board). The bill expands the board from eleven to thirteen members and requires that the two new members must be licensed behavior analysts. Additionally, the bill obligates the board to require licensed

behavior analysts, licensed assistant behavior analysts, and behavior technicians to undergo a state criminal history records check and a national criminal records check, both supported by fingerprints. The cost of the criminal background check will be borne by the applicant. The bill additionally requires the board to submit a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry for applicants for behavior analyst licensure or assistant behavior analyst licensure. Furthermore, the bill inserts this profession into a number of code sections to conform to restrictions, definitions, and application processes that apply to professions regulated by the board. The bill also adds a criminal background check provision for the board to grant a license to professionals regulated under the board who enter into a reciprocal agreement with another state with substantially similar licensing requirements. Lastly, the bill details exemptions from licensure as a behavior analyst or assistant behavior analyst.

This bill identifies the Behavior Analyst Certification Board (BACB) or its successor as the national certifying entity for behavior analysts, behavior analyst assistants, and behavior technicians. Currently, all BACB-certified behavior analysts, behavior analyst assistants, and behavior technicians in South Carolina number 1,572 individuals. Since 2018, this number has grown by an average of about 140 individuals per year.

Department of Labor, Licensing and Regulation. LLR reports that expenditures are expected due to the addition of two new members to the board, processing new applications and criminal background checks related to behavior analyst and assistant behavior analyst licensure, and processing criminal background checks related to reciprocal agreements.

The board currently meets four times per year. LLR anticipates two additional meetings in the first year will be necessary to address new licensure requirements. In addition, the cost of each board meeting will increase by adding two additional board members to each meeting as required in the bill. The cost breakdown for board meetings includes a \$35 per diem for each member, a 56 cent per mile mileage reimbursement, and a \$2,156 court reporter fee. LLR is unable to estimate the exact mileage expenditure increase from the addition of two board members but indicates that total mileage reimbursement for the board was \$2,640 in 2019. However, board meetings have recently been held virtually due to the COVID-19 pandemic, and it is not clear when in-person meetings will return. Assuming two additional meetings and that in-person meetings resume, we estimate that this bill will increase expenditures by \$7,542 in FY 2021-22 and by \$760 each year thereafter for two additional board meetings in the first year and for two additional board members for every meeting.

This bill creates additional administrative duties as detailed above that cannot be managed by existing staff. Therefore, LLR anticipates that it will require 1.0 FTEs to handle license applications and renewals for the two new license types and to handle criminal background check processing. Salary and fringe benefits for an Administrative Assistant will total \$47,728 and other recurring operating expenses will total \$2,500. Non-recurring infrastructure costs associated with this position will total \$1,000.

Therefore, we estimate that this bill may increase Other Funds expenditures of LLR by \$58,770 in FY 2021-22 and by \$50,988 each year thereafter for the addition of 1.0 FTEs and the addition of two board members to the board. The full impact of this bill on Other Funds expenditures is undetermined because LLR cannot estimate the number of applicants who will seek licensure. However, licensure fees borne by applicants are expected to generate the revenue to support any increases in expenditures.

State Law Enforcement Division. We have not received a response from SLED regarding the expenditure impact of this bill. However, we anticipate that the bill will require SLED to perform activities that can be conducted in the normal course of agency business. Therefore, we do not expect that this bill will have an expenditure impact on the agency due to the provision requiring a state criminal history records check and fingerprinting for applicants to the board. *This section of the fiscal impact statement has been updated to include an agency impact for SLED.*

State Revenue

This bill allows for the regulation and licensure of behavior analysts and assistant behavior analysts under the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists (board). The bill expands the board from eleven to thirteen members and requires that the two new members must be licensed behavior analysts. Additionally, the bill obligates the board to require licensed behavior analysts, licensed assistant behavior analysts, and behavior technicians to undergo a state criminal history records check and a national criminal records check, both supported by fingerprints. The cost of the criminal background check will be borne by the applicant. The bill additionally requires the board to submit a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry for applicants for behavior analyst licensure or assistant behavior analyst licensure. The bill also adds a criminal background check provision for the board to grant a license to professionals regulated under the board who enter into a reciprocal agreement with another state with substantially similar licensing requirements.

Department of Labor, Licensing and Regulation. This bill requires applicants for behavior analyst licensure and assistant behavior analyst licensure to pay the appropriate fee approved by the board. Because the board cannot estimate how many applicants will seek licensure as a behavior analyst or assistant behavior analyst and licensure fees have not been determined, the revenue impact of this bill on the Other Funds of LLR is unknown.

Proviso 81.3 of the FY 2021-22 Appropriations Act requires LLR to remit 10 percent of expenditures of the Division of Professional and Occupational Licensing (POL) to the General Fund. Because the total increased cost to the board is unknown, LLR is unable to determine the exact impact to General Fund revenue. However, LLR indicates that they expect the potential deposit to the General Fund to be minimal, not exceeding a few hundred dollars.

State Law Enforcement Division. We have not received a response from SLED regarding the revenue impact of this bill. However, we anticipate that the bill may increase the number of state criminal records checks that SLED is required to perform. The total cost for a criminal records

check is \$51.75, of which \$25 is retained by SLED. The vendor, Identogo, receives \$13.50, and the remainder of the fee, \$13.25, is remitted to the Federal Bureau of Investigation. Pursuant to Section 23-3-115(A), revenue generated by state criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED.

Currently, all BACB-certified behavior analysts, behavior analyst assistants, and behavior technicians in South Carolina number 1,572 individuals. Since 2018, this number has grown by an average of about 140 individuals per year. If state background checks are performed on all 1,572 individuals initially and on an additional 140 individuals each successive year, revenue would increase by approximately \$39,300 in FY 2021-22 and by \$3,500 in each successive year. In FY 2018-19, SLED generated approximately \$1,300,000 in total from state criminal records checks. As a note, we are not using FY 2019-20 data due to the impact of the COVID-19 pandemic on state background checks processing. We do not anticipate that the total increase in revenue due to state background checks will be more than the \$4,461,000 cap on revenue deposited to the General Fund. Based upon this, the increase in revenue of \$39,300 in FY 2021-22 and \$3,500 in each year thereafter will be deposited to the General Fund, and there is no increase in Other Funds of SLED. *This section of the fiscal impact statement has been updated to include an agency impact for SLED.*

Local Expenditure

N/A

Local Revenue

N/A

Updated for Additional Agency Response on March 17, 2021

Introduced on January 27, 2021

State Expenditure

This bill provides for the regulation and licensure of behavior analysts and assistant behavior analysts under the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists (board). The bill expands the board from eleven to thirteen members and requires that the two new members must be licensed behavior analysts. Additionally, the bill obligates the board to require licensed behavior analysts, licensed assistant behavior analysts, and behavior technicians to undergo a state criminal history records check and a national criminal records check, both supported by fingerprints. The cost of the criminal background check will be borne by the applicant. The bill additionally requires the board to submit a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry for applicants for behavior analyst licensure or assistant behavior analyst licensure. Furthermore, the bill inserts this profession into a number of code sections to conform to restrictions, definitions, and application processes which apply to professions regulated by the board. The bill also adds a criminal background check provision for the board to grant a license to professionals regulated under the board who enter into a reciprocal agreement with another state with substantially similar

licensing requirements. Lastly, the bill details exemptions from licensure as a behavior analyst or assistant behavior analyst.

Department of Labor, Licensing and Regulation. LLR reports that expenditures are expected due to the addition of two new members to the board, processing new applications and criminal background checks related to behavior analyst and assistant behavior analyst licensure, and processing criminal background checks related to reciprocal agreements.

The board currently meets four times per year. LLR anticipates two additional meetings in the first year will be necessary to address new licensure requirements. In addition, the cost of each board meeting will increase by adding two additional board members to each meeting as provided for in the bill. The cost breakdown for board meetings includes a \$35 per diem for each member, a 56 cent per mile mileage reimbursement, and a \$2,156 court reporter fee. LLR is unable to estimate the exact mileage expenditure increase from the addition of two board members but indicates that total mileage reimbursement for the board was \$2,640 in 2019. However, board meetings have recently been held virtually due to the COVID-19 pandemic, and it is not clear when in-person meetings will return. Assuming two additional meetings and that in-person meetings resume, RFA estimates that this bill will increase expenditures by \$7,542 in FY 2021-22 and by \$760 each year thereafter for two additional board meetings in the first year and for two additional board members for every meeting.

This bill creates additional administrative duties as detailed above that cannot be managed by existing staff. Therefore, LLR anticipates that it will require 1.0 additional FTEs to handle license applications and renewals for the two new license types and to handle criminal background check processing. Salary and fringe benefits for an Administrative Assistant will total \$47,728 and other recurring operating expenses will total \$2,500. Non-recurring infrastructure costs associated with this position will total \$1,000.

Therefore, RFA estimates that this bill may increase Other Funds expenditures by \$58,770 in FY 2021-22 and by \$50,988 each year thereafter for the addition of 1.0 FTEs for LLR and the addition of two board members to the board. The full impact of this bill on Other Funds expenditures is undetermined because LLR cannot estimate the number of applicants who will seek licensure. However, licensure fees borne by applicants are expected to generate the revenue to support any increases in expenditures.

This fiscal impact has been updated for an additional response from LLR.

State Law Enforcement Division. The expenditure impact of this bill on the Other Funds of SLED due to the provision for criminal history records checks and fingerprinting is pending, contingent upon a response from the agency.

State Revenue

Department of Labor, Licensing and Regulation. This bill requires applicants for behavior analyst licensure and assistant behavior analyst licensure to pay the appropriate fee approved by

the board. Because the board cannot estimate how many applicants will seek licensure as a behavior analyst or assistant behavior analyst, the revenue impact of this bill on the Other Funds of LLR is unknown.

Proviso 81.3 of the FY2019-20 Appropriations Act requires LLR to remit 10 percent of expenditures of the Division of Professional and Occupational Licensing (POL) to the General Fund. Because LLR does not know the total increased cost to the board, the agency is unable to determine the exact impact to General Fund revenue. However, LLR indicates that they expect the potential deposit to the General Fund to be minimal, not exceeding a few hundred dollars.

This fiscal impact has been updated for an additional response from LLR.

State Law Enforcement Division. This bill may increase the number of state criminal records checks that SLED is required to perform. Pursuant to Section 23-3-115(A), revenue generated by state criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED. The revenue impact of this bill on the General Fund and the Other Funds of SLED is pending, contingent upon a response from the agency.

Local Expenditure

N/A

Local Revenue

N/A

Introduced on January 27, 2021

State Expenditure

This bill provides for the regulation of behavior analysts and assistant behavior analysts under the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, Addiction Counselors, and Psycho-Educational Specialists (board). The bill expands the board from eleven to thirteen members and requires that the two new members must be licensed behavior analysts. Additionally, the bill obligates the board to require licensed behavior analysts, licensed assistant behavior analysts, and behavior technicians to undergo a state criminal history records check and a national criminal records check, both supported by fingerprints. The cost of the criminal background check will be borne by the applicant. The bill additionally requires the board to submit a search of the National Crime Information Center National Sex Offender Registry and the state sex offender registry for applicants for behavior analyst licensure or assistant behavior analyst licensure. Furthermore, the bill inserts this profession into a number of code sections to conform to restrictions, definitions, and application processes which apply to professions regulated by the board. The bill also adds a criminal background check provision for the board to grant a license to professionals regulated under the board who complete an educational program in a foreign country. Lastly, the bill details exemptions from licensure as a behavior analyst or assistant behavior analyst.

Department of Labor, Licensing and Regulation. The expenditure impact of this bill on the Other Funds of LLR is pending, contingent upon a response from the agency.

State Law Enforcement Division. The expenditure impact of this bill on the Other Funds of SLED due to the provision for criminal history records checks and fingerprinting is pending, contingent upon a response from the agency.

State Revenue

Department of Labor, Licensing and Regulation. This bill allows the board to collect appropriate licensure fees from behavior analysts and assistant behavior analysts. Additionally, Proviso 81.3 of the FY2019-20 Appropriations Act requires LLR to remit 10 percent of expenditures of the Division of Professional and Occupational Licensing (POL) to the General Fund. The revenue impact of this bill on the General Fund and the Other Funds of LLR is pending, contingent upon a response from the agency.

State Law Enforcement Division. This bill may increase the number of state criminal records checks that SLED is required to perform. Pursuant to Section 23-3-115(A), revenue generated by state criminal records checks performed by SLED up to an amount of \$4,461,000 must be deposited in the General Fund. Any revenue over that amount is retained by SLED. The revenue impact of this bill on the General Fund and the Other Funds of SLED is pending, contingent upon a response from the agency.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director