

Date of Hearing: January 13, 2026

Deputy Chief Counsel: Stella Choe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

AB 277 (Alanis) – As Amended January 5, 2026

SUMMARY: Requires a person who provides “behavioral health treatment,” as defined in existing law, for a behavioral health center, facility, or program, to undergo a background check. Specifies that this requirement does not apply to a person who holds a current and valid license issued by a California state licensing board, if the licensure process includes a finger-print based background check and the license is in good standing.

EXISTING LAW:

- 1) Defines “behavioral health treatment” to mean professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, that develop or restore, to the maximum extent practicable, the functioning of an individual with pervasive developmental disorder or autism and that meet all of the following criteria (Health & Saf. Code, § 1374.73, subd. (c)(1):
 - a) The treatment is prescribed by a physician and licensed surgeon or is developed by a licensed psychologist;
 - b) The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by a qualified autism service provider or qualified autism service professional or paraprofessional supervised by a qualified autism service provider or professional; and,
 - c) The treatment plan has measurable goals over a specific timeline that is developed and approved by the qualified autism service provider for the specific patient being treated and periodically reviewed and modified whenever appropriate. Requires the treatment plan to do all of the following:
 - i) Describes the patient’s behavioral health impairments or developmental challenges that are to be treated;
 - ii) Designs an intervention plan that includes the service type, number of hours, and parent participation needed to achieve the plan’s goal and objectives, and the frequency at which the patient’s progress is evaluated and reported;
 - iii) Provides intervention plans that utilize evidence-based practices, with demonstrated clinical efficacy in treating pervasive developmental disorder or autism; and,
 - iv) Discontinues intensive behavioral intervention services when the treatment goals and objectives are achieved or no longer appropriate.

- 2) Requires the Department of Justice (DOJ) to maintain state summary criminal history information, as defined, and to furnish this information to various state and local government officers, officials, and other prescribed entities, if needed in the course of their duties. (Pen. Code, §11105, subds. (a)-(b).)
- 3) Defines “state summary criminal history information” to mean the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data about the person. (Pen. Code, §11105, subd. (a)(2)(A).)
- 4) Specifies that a fingerprint-based criminal history information check that is required pursuant to any statute to be requested from the DOJ. When a government agency or other entity requests such a criminal history check for purposes of employment, licensing, or certification, existing law requires the DOJ to disseminate specified information in response to the request, including information regarding convictions and arrests for which the applicant is presently awaiting trial. (Pen. Code, § 11105, subd. (u).)
- 5) States, notwithstanding any other law, a human resource agency or an employer may request from DOJ records of all convictions or any arrest pending adjudication involving specified offenses of a person who applies for a license, employment, or volunteer position, in which they would have supervisory or disciplinary power over a minor or any person under their care. DOJ shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant. (Pen. Code, § 11105.3, subd. (a).)
- 6) Provides that a request for records pursuant to the above provision shall include the applicant’s fingerprints and any other data specified by DOJ. (Pen. Code, § 11105.3, subd. (b).)
- 7) States that the determination of whether the criminal history record shows that the applicant, employee, or volunteer has been convicted of, or is under the pending indictment for, any crime that bears upon the fitness of the individual to have responsibility for the safety and well-being of children, the elderly, the handicapped, or the mentally impaired shall solely be made by the human resource agency or employer. DOJ is not required to make such a determination on behalf of any human resource agency or employer. (Pen. Code, § 11105.3, subd. (b)(2)(E).)
- 8) Defines the following terms for purposes of a background check pursuant to Penal Code section 11105.3:
 - a) “Employer” means any nonprofit corporation or other organization specified by the Attorney General that employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.
 - b) “Human resource agency” agency means a public or private entity, excluding any agency responsible for licensing of facilities pursuant to the California Community Care Facilities Act, the California Residential Care Facilities for the Elderly Act, and the

California Child Day Care Facilities Act, responsible for determining the character and fitness of a person who is:

- i) Applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired;
 - ii) Applying to be a volunteer who transports individuals impaired by drugs or alcohol; or,
 - iii) Applying to adopt a child or to be a foster parent. (Pen. Code, § 11105.3, subd. (f).)
- 9) Prohibits employers with five or more employees from asking a job candidate about conviction history before making a job offer and requires an employer who intends to deny an applicant a position of employment solely or in part because of the applicant's conviction history to make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job, and to consider certain topics when making that assessment, as described. (Gov. Code, § 12952.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "California has been a long-time advocate for those with disabilities, but there is still work to be done. ASD [autism spectrum disorder] has become increasingly prevalent among people of color and lower-income communities while rates of child abuse have stayed high among females and Hispanic children. The ongoing phenomenon of child abuse – specifically against children with developmental disabilities – is unacceptable, and AB 277 is an important stepping stone to prevent bad actors from being in close proximity to vulnerable children."
- 2) **Summary Criminal History Information:** State summary criminal history information is the master record of information compiled by DOJ pertaining to the identification and criminal history of any person. This information includes name, date of birth, physical description, fingerprints, photographs, arrests, dispositions and similar data. (Pen. Code, § 11105, subd. (a).) Access to a person's summary criminal history information is generally prohibited and only allowed to be disseminated if specifically authorized in statute. "The state constitutional right of privacy extends to protect defendants from unauthorized disclosure of criminal history records. [Citation.] These records are compiled without the consent of the subjects and disseminated without their knowledge. Therefore, custodians of the records, have a duty to 'resist attempts at unauthorized disclosure and the person who is the subject of the record is entitled to expect that his right will be thus asserted.'" (*Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, 165-66.)

DOJ is tasked with maintaining state summary criminal history information and requires the Attorney General to furnish state summary criminal history information only to statutorily authorized entities or individuals for employment, licensing, volunteering, etc. (Pen. Code, § 11105.) In addition to the specified entities authorized to receive state summary criminal history information, DOJ may furnish state summary criminal history information to other

specified employers upon a showing of compelling need for the information and to any person or entity when they are required by statute to conduct a criminal background check to comply with requirements or exclusions expressly based upon specified criminal conduct. (Pen. Code, § 11105, subds. (a)(13) & (c).)

Existing law provides that any fingerprint-based criminal history check required pursuant to any statute shall be requested by DOJ. The agency or entity authorized to receive criminal history information shall submit to DOJ fingerprint images and any related information required by DOJ for the purpose of obtaining information as to the existence and content of a record of state or federal arrests, as specified. (Pen. Code, § 11105, subd. (u)(1).) If requested, DOJ shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation (FBI) for the purpose of obtaining a federal criminal history information check. DOJ shall review the information returned from the FBI, and compile and disseminate a response or a fitness determination, as appropriate, to the agency or entity identified that requested the information. (Pen. Code, § 11105, subd. (u)(2).)

A separate existing statute states, notwithstanding any other law, that an employer or human resources agency may request from DOJ criminal records of a person involving specified offenses who applies for a license, employment, or volunteer position, in which they would have supervisory or disciplinary power over a minor or any person under their care, and further requires DOJ to furnish this information to the requester and applicant. (Pen. Code, § 11105.3, subd. (a).) The list of specified convictions includes sexual battery, a sex offense against a minor, or of any felony that requires sex offender registration, or if within the last 10 years the person was convicted or arrested for child abuse, elder abuse, or as the result of committing theft, burglary, or any felony. (Welf. & Inst. Code, § 15660, subd. (a).)

This bill would require a person who provides “behavioral health treatment,” as defined in existing law, for a behavioral health center, facility, or program, to undergo a background check pursuant to Penal Code section 11105.3, described above, which authorizes employers to request background check information for prospective employees who would have supervisory or disciplinary power over a minor or any person under their care. This bill excludes persons who hold a license with a state licensing agency and have already undergone a criminal background check during the licensing process.

- 3) **Protections for Job Applicants with Criminal Histories:** About one in five Californians has a criminal record of some kind. Having such a record can be a significant barrier to getting a job, making it harder for these Californians to move forward with their lives. In 2017, California mandated new hiring procedures intended to ensure that job applicants with criminal records get a fair chance by: (1) requiring most employers to make conditional job offers before initiating background checks; (2) limiting the types of criminal history employers can consider; (3) obligating employers to identify a nexus between the criminal history and the job duties before rescinding an offer; and (4) giving applicants an opportunity to present mitigating information. (See Gov. Code, § 12952.)

As specified above, existing law provides for specified procedures including notice and an opportunity to respond when an employer is considering rejection of a job applicant based on criminal history information. These provisions are expressly exempted when an employer is statutorily required to conduct a criminal background check. (Gov. Code, § 12952, subd. (d).)

By requiring this category of prospective employees to be background checked, they would be exempt from the protections described above.

- 4) **Registered Behavior Technicians:** This bill would apply to persons who provide “behavioral health treatment,” as defined in existing law, for a behavioral health center, facility, or program who is not licensed by a California licensing board. Generally, psychiatrists, psychologists, social workers, counselors, and peer support specialists work at behavioral health centers to provide the range of services clients need. In order to provide treatment, a person must generally be licensed by their respective professional licensing board. Licensees are currently required to undergo a fingerprint criminal history check prior to a license being issued. Licensees can be denied a license when: The applicant was convicted of a crime within the seven years preceding the date of application; and, that crime is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made. (Bus. & Prof. Code, § 480.) There are two exceptions to the seven-year lookback: A serious felony conviction or a crime for which registration as a sex offender is required. (*Ibid.*)

This bill specifies that a person who holds a current and valid license issued by a California state licensing board, if the licensure process includes a finger-print based background check and the license is in good standing, is not required to undergo another background check.

According to information provided by the author’s office, registered behavior technicians provide behavioral health treatment but are not licensed through a state licensing board. Rather, they are certified and registered with the Behavior Analyst Certification Board (BACB), a national non-profit corporation founded in 1988 whose primary function is to operate certification programs for people in the applied behavior analysis field. In this role, BACB establishes entry-level eligibility standards for education and training AND provides a mechanism to address behavior analysis practitioners who violate BACB ethics codes.¹

According to BACB, “a registered behavior technician is a paraprofessional certified in behavior analysis. RBTs assist in delivering behavior-analytic services and practice under the direction and close supervision of an RBT Supervisor and/or an RBT Requirements Coordinator, who are responsible for all work RBTs perform.” Additionally, BACB’s Registered Behavior Technician Handbook lists eligibility requirements for obtaining an RBT certification which includes completing and passing a criminal background check and an abuse registry check no more than 180 days prior to paying for the RBT certification application, but notes that the BACB does not require fingerprinting and this requirement may vary by state and organization. (*RBT Handbook*, Behavior Analyst Certification Board, p. 3, updated January 2026.)

This bill would require persons who provide behavioral health treatment at a behavioral health center, facility, or program, who are not otherwise licensed through a state licensing agency to undergo a background check pursuant to existing Penal Code section 11105.3, which governs background checks not otherwise required by statute of persons who would have supervisory or disciplinary power over a minor or any person under their care. As

¹ See The BACB: What It Is, What It Does, and Why., BACB (July 9, 2020) <<https://www.bacb.com/the-bacb-what-it-is-what-it-does-and-why/>> [last visited Jan. 8, 2026].

discussed above, it appears that a registered behavior technician has to undergo a criminal background check as a part of their certification application however, it is unclear whether this is fingerprint-based and where the information is being pulled from. This bill would require the employer to also conduct a background check.

- 5) **Double-Referral:** This bill has been double-referred to this committee and the Human Services Committee. Should this bill pass out of this committee, it will be referred to Human Services Committee where it will be analyzed for issues pertaining to that committee's jurisdiction.
- 6) **Argument in Support:** According to *California Association for Behavior Analysis*, "This critical measure will help ensure the safety and well-being of vulnerable individuals receiving care by preventing those with a history of crimes involving minors from working in these settings.

"The California Association for Behavior Analysis (CalABA) is the professional membership association representing over 31,000 practitioners of behavior analysis in California. Our mission is to advance, promote, and protect the science and practice of behavior analysis. Many of our members provide behavioral health treatment to individuals with developmental disabilities such as autism and intellectual disabilities. We recognize the importance of implementing clear and enforceable safety measures within behavioral health services to protect the individuals we serve, particularly children and individuals with disabilities.

"By requiring employers to conduct background checks, AB 277 aligns behavioral health settings with the existing standards of other healthcare and educational institutions. This legislation will promote employer accountability, strengthen public trust, and, most importantly, enhance consumer protection."

- 7) **Related Legislation:** None.
- 8) **Prior Legislation:** AB 1715 (Holden), of the 2015-16 Legislative session, would have established a Behavior Analyst category of licensure to be administered by the Board of Psychology. AB 1715 was held in the Senate Committee on Business, Professions, and Economic Development.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Regional Center Agencies
 Autism Speaks
 Autism Spectrum Therapies
 California Association for Behavior Analysis
 Counsel of Autism Service Providers
 The Arc and United Cerebral Palsy California Collaboration

Opposition

None received

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