
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 277 **Hearing Date:** June 23, 2026
Author: Alanis
Version: June 2, 2026 Amended
Urgency: No **Fiscal:** Yes
Consultant: ML

Subject: *Behavioral health centers, facilities, and programs: background checks*

HISTORY

Source: Autism Business Association

Prior Legislation: AB 2669 (Nazarian), Ch. 261, Stats. of 2022
AB 506 (Gonzalez), Ch. 169, Stats. of 2021
AB 1715 (Holden), held in Senate Business and Professions, 2016

Support: ABEDI, INC.; Applied Behavior Consultants; Association of Regional Center Agencies; Autism Behavior Services, INC.; Autism Business Association; Behavior Frontiers; California Association for Behavior Analysis

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to require a person who provides “behavioral health treatment,” as defined in existing law, for a behavioral health center, facility, or program, to undergo a Department of Justice (DOJ) fingerprint background check.

Existing law 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 a pervasive developmental disorder or autism and that meet all of the following criteria:

- The treatment is prescribed by a physician and licensed surgeon or is developed by a licensed psychologist;
- 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; and
- The treatment plan has measurable goals over a specific timeline that are developed and approved by the qualified autism service provider for the specific patient being treated and periodically reviewed and modified whenever appropriate. (Health & Saf. Code, § 1374.73, subd. (c)(1).)

Existing law requires the 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, subs. (a)-(b).)

Existing law 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).)

Existing law requires any fingerprint-based criminal history information check required pursuant to any statute to be performed by DOJ. Requires that when a government agency or other entity requests such a criminal history check for purposes of employment, licensing, or certification, the DOJ must 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).)

Existing law states, notwithstanding any other law, that 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. Requires DOJ to furnish the information to the requesting employer and to also send a copy of the information to the applicant. (Pen. Code, § 11105.3, subd. (a).)

Existing law lists the specified convictions eligible for the above background check as sexual battery, a sex offense against a minor, 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).)

Existing law requires 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).)

Existing law states that the determination of whether the criminal history record shows that the applicant, employee, or volunteer has been convicted of, or is under 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. States that 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).)

Existing law defines, for the purposes of the above provisions, “employer” to mean 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. (Pen. Code, § 11105.3, subd. (f)(2).)

Existing law defines, for the purposes of the above provisions, “human resource agency” to mean 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:

- Applying for a license, employment, or a volunteer position within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired;
- Applying to be a volunteer who transports individuals impaired by drugs or alcohol; or
- Applying to adopt a child or to be a foster parent. (Pen. Code, § 11105.3, subd. (f)(3).)

Existing law 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.)

Existing law requires that psychiatrists, psychologists, social workers, counselors, and peer support specialists be licensed by their respective professional licensing board. Requires that such licensees undergo a fingerprint criminal history check prior to a license being issued. (Bus. & Prof. Code, § 144.)

Existing law allows that such 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. Allows that a serious felony conviction or a crime for which registration as a sex offender is required can serve as the basis for a denial regardless of the date of offense. (Bus. & Prof. Code, § 480.)

This bill requires a person who provides behavioral health treatment, as defined, for a behavioral health center, facility, or program to undergo a DOJ background check, as specified.

This bill specifies that it 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 fingerprint-based background check and the license is in good standing.

COMMENTS

1. Need for This Bill

The author writes:

California has been a long-time advocate for people with disabilities, but there is still work to be done. ASD 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. Existing Law Governing Background Checks

State summary criminal history information is the primary 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 only required to furnish state summary criminal history information to statutorily authorized entities or individuals for employment, licensing, or volunteering purposes. (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 requires that any fingerprint-based criminal history check required pursuant to any statute must be requested by DOJ. The agency or entity authorized to receive criminal history information must 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 must 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 must 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, any felony that requires sex offender registration, or if within the last 10 years, any conviction or arrest for child abuse, elder abuse, theft, burglary, or any felony. (Welf. & Inst. Code, § 15660, subd. (a).)

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 employment and housing, making it harder for these Californians to successfully reenter their communities and 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: requiring most employers to make conditional job offers before initiating background checks; limiting the types of criminal history employers can consider; obligating employers to identify a nexus between the criminal history and the job duties before rescinding an offer; and giving applicants an opportunity to present mitigating information. (Gov. Code, § 12952.) Under these provisions, employers can still revoke conditional offers on the basis of a criminal conviction.

These provisions are expressly exempted when an employer is statutorily required to conduct a criminal background check, as is the case in this bill. (Gov. Code, § 12952, subd. (d).) The background checks required by this bill would be exempt from the fair chance protections above.

4. Behavioral Technicians

Existing law 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 functioning of an individual with a pervasive developmental disorder or autism and that meet all of the following criteria:

- The treatment is prescribed by a physician and licensed surgeon or is developed by a licensed psychologist;
- The treatment is provided under a treatment plan prescribed by a qualified autism service provider and is administered by a qualified autism service provider, professional, or paraprofessional supervised by a qualified autism service provider or professional; and
- 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. (Health & Saf. Code, § 1374.73, subd. (c)(1).)

In California, Registered Behavioral Technicians (RBTs) are certified as paraprofessionals by the Behavior Analyst Certification Board (BACB), but they are not licensed or formally certified by the State of California. According to the author, this has created a legal gap in which some behavioral health companies hire RBTs or other entry-level staff without first vetting them to make sure they are fit to work directly with children. The author notes that many cases of sexual abuse—including what allegedly occurred at Modesto’s Kendall Center in 2023—involve a defendant employed as an RBT. (Jonathan Ayestas, *Modesto Kendall Center employee arrested for child lewd acts*, KCRA (November 2, 2023) <<https://www.kcra.com/article/modesto-kendall-center-employee-arrested-child-lewd-acts/46003224>> [as of May 15, 2026].)

The BACB is 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 Notably, behavioral technicians are *not* required to be certified by the BACB to provide treatment, only to use the title “registered behavioral technician”; however, many employers and insurance providers require certification. According to the BACB, 33 states across the U.S. require licensure for behavior technicians, while California does not. (Behavior Analyst Certification

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/>> [as of May 15, 2026].

Board, *U.S. Licensure of Behavior Analysts* (2026) <<https://www.bacb.com/u-s-licensure-of-behavior-analysts/>> [as of May 15, 2026].)

According to BACB, “a[n] [RBT] 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. However, the Handbook notes that the BACB does not require fingerprinting, and this requirement may vary by state and organization. (Behavior Analyst Certification Board, *RBT Handbook* (Jan. 2026) p. 3 <https://www.bacb.com/wp-content/uploads/2025/08/RBTHandbook_260116-a.pdf> [as of June 15, 2026].) Thus, 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.

By comparison, 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, these persons must generally be licensed by their respective professional licensing board. Licensees are required to undergo a fingerprint criminal history check prior to a license being issued. (Bus. & Prof. Code, § 144.) 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.*)

5. Effect of This Bill

This bill requires a person who provides “behavioral health treatment” for a behavioral health center, facility, or program to undergo a DOJ fingerprint background check. 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 fingerprint-based background check and the license is in good standing, is not required to undergo another background check.

As discussed above, other mental health professionals who work at behavioral health centers may only 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. However, there is an exception for serious felonies and crimes for which registration as a sex offender is required. These protections are intended to ensure that people with criminal convictions can obtain employment, reenter the community, and move on from their past.

This bill, by contrast, contains no similar protections or limitations on the use of the background check. Rather, behavioral health centers may deny the applicant employment for any conviction, regardless of its date or relevance to the position. The Committee and author may consider amendments that instead allow the employer to deny employment only for offenses within seven years of the date of application that are reasonably related to the job responsibilities, unless the conviction is a serious felony or a sex offense.

6. Argument in Support

The Autism Business Association writes:

AB 277 takes a vital step to protect vulnerable populations by codifying background checks for behavioral health treatment (BHT). By requiring all employers to conduct thorough background checks on employees who perform BHT, this bill establishes a clear, uniform standard for safety and accountability across the state.

Consumer safety remains our top priority. The individuals and families who rely on behavioral health treatments deserve the peace of mind that comes from knowing their care providers undergo proper vetting. This legislation directly addresses that need, ensuring consumers receive essential care in a secure and trusted environment.

-- END --