

AMENDED IN SENATE APRIL 7, 2022

AMENDED IN SENATE MARCH 16, 2022

SENATE BILL

No. 1338

Introduced by Senators Umberg and Eggman

February 18, 2022

An act to add ~~Part 1.3 (commencing with Section 5565) to Division 5 of Section 1374.723 to the Health and Safety Code, to amend Section 1370.01 of the Penal Code, and to add Part 8 (commencing with Section 5970) to Division 5 of the Welfare and Institutions Code, relating to mental health.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, as amended, Umberg. Community Assistance, Recovery, and Empowerment (CARE) Court Program.

~~Existing~~

~~(1) Existing law, the Assisted Outpatient Treatment Demonstration Project Act of 2002, known as Laura's Law, requires each county to offer specified mental health programs, unless a county or group of counties opts out by a resolution passed by the governing body, as specified. Existing law defines "assisted outpatient treatment" to mean categories of outpatient services that have been ordered by a court, as prescribed. law, the Lanterman-Petris-Short Act, provides for short-term and longer-term involuntary treatment and conservatorships for people who are determined to be gravely disabled.~~

~~This bill would establish the Community Assistance, Recovery, and Empowerment (CARE) Court Program to connect a person struggling with untreated mental illness and substance use disorders with a court-ordered CARE plan. The bill would authorize a court to order an adult person who is suffering from a mental illness and a substance use~~

~~disorder and who lacks medical decisionmaking capacity to obtain treatment and services under a CARE plan that is managed by a CARE team, as specified. The bill would require each county to participate in providing services under the program. By imposing new duties on counties, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

This bill would enact the Community Assistance, Recovery, and Empowerment (CARE) Act, which would authorize specified people to petition a civil court to create a CARE plan and implement services, to be provided by county behavioral health agencies, to provide behavioral health care, stabilization medication, and housing support to adults who are suffering from schizophrenia spectrum and psychotic disorders and who lack medical decisionmaking capacity. The bill would specify the process by which the petition is filed and reviewed, including requiring the petition to be signed under penalty of perjury, and to contain specified information, including the acts that support the petitioner's belief that the respondent meets the CARE criterion. The bill would also specify the schedule of review hearings required if the respondent is ordered to comply with a one-year CARE plan by the court. The bill would authorize the CARE plan to be extended for up to one year and prescribes the requirement for the graduation plan that is required upon leaving the CARE program. By expanding the crime of perjury and imposing additional duties on the county behavioral health agencies, this bill would impose a state-mandated local program.

This bill would include in the CARE program the respondent's right to have a supporter and counsel at all proceedings. The bill would require the California Health and Human Services Agency, subject to appropriation, to administer the CARE Supporter program, which would make available a trained supporter to each respondent.

This bill would authorize the court, at any time during the proceedings if it finds the county not complying with court orders, to fine the county up to \$1,000 per day and, if the court finds persistent noncompliance, to appoint a receiver to secure court-ordered care for the respondent at the county's cost.

(2) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care. Existing law requires health care service plans to provide coverage for medically necessary treatment of mental health and substance use disorders. Violation of the Knox-Keene Act is a crime.

This bill would require health care service plans to cover the cost of developing an evaluation for CARE services and the provision of all health care services for an enrollee when required or recommended for the enrollee pursuant to a CARE plan, as specified, without cost sharing. By creating a new crime, this bill would impose a state-mandated local program.

(3) Existing law prohibits a person from being tried or adjudged to punishment while that person is mentally incompetent. Existing law establishes a process by which a defendant’s mental competency is evaluated and by which the defendant receives treatment, with the goal of returning the defendant to competency. Existing law suspends a criminal action pending restoration to competency.

This bill, for misdemeanor defendants who have been determined to be incompetent to stand trial, would authorize the court to refer the defendant to the CARE program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Thousands of Californians are suffering from untreated
- 4 schizophrenia spectrum and psychotic disorders, leading to risks

1 to their health and safety and increased homelessness,
2 incarceration, hospitalization, conservatorship, and premature
3 death. These individuals, families, and communities deserve a path
4 to care and wellness.

5 (b) With advancements in behavioral health treatments, many
6 people with untreated schizophrenia spectrum and psychotic
7 disorders can stabilize, begin healing, and thrive in
8 community-based settings, with the support of behavioral health
9 services, stabilizing medications, and housing. But too often this
10 comprehensive care is only provided after arrest, conservatorship,
11 or institutionalization.

12 (c) A new approach is needed to act earlier and to provide
13 support and accountability, both to individuals with these untreated
14 severe mental illnesses and to local governments with the
15 responsibility to provide behavioral health services. California's
16 civil courts will provide a new process for earlier action, support,
17 and accountability, through a new Community Assistance,
18 Recovery, and Empowerment (CARE) Court Program.

19 (d) Self-determination and civil liberties are important
20 California values that can be advanced and protected for
21 individuals with these untreated severe mental illnesses and without
22 current capacity for medical decisionmaking, with the
23 establishment of a new CARE Supporter role, in addition to legal
24 counsel, for CARE proceedings.

25 (e) California continues to act with urgency to expand
26 behavioral health services and to increase housing choices and
27 end homelessness for all Californians. CARE provides a vital
28 solution for some of the most ill and most vulnerable Californians.

29 SEC. 2. Section 1374.723 is added to the Health and Safety
30 Code, to read:

31 1374.723. (a) A health care service plan contract issued,
32 amended, renewed, or delivered on or after July 1, 2023, that
33 covers hospital, medical, or surgical expenses shall cover the cost
34 of developing an evaluation pursuant to Section 5977 of the
35 Welfare and Institutions Code and the provision of all health care
36 services for an enrollee when required or recommended for the
37 enrollee pursuant to a care plan approved by a court in accordance
38 with the court's authority under Sections 5977 and 5982 of the
39 Welfare and Institutions Code.

1 (b) (1) A health care service plan shall not require prior
2 authorization for services provided pursuant to a care plan
3 approved by a court under the CARE program.

4 (2) A health care service plan may conduct a postclaim review
5 to determine appropriate payment of a claim. Payment for services
6 subject to this section may be denied only if the health care service
7 plan reasonably determines the enrollee was not enrolled with the
8 plan at the time the services were rendered, the services were never
9 performed, or the services were not provided by a health care
10 provider appropriately licensed or authorized to provide the
11 services.

12 (3) Notwithstanding paragraph (1), a health care service plan
13 may require prior authorization for services as permitted by the
14 department pursuant to subdivision (e).

15 (c) (1) A health care service plan shall provide for
16 reimbursement of services provided to an enrollee pursuant to this
17 section at the greater of either of the following amounts:

18 (A) The health plan's contracted rate with the provider.

19 (B) The fee-for-service or case reimbursement rate paid in the
20 Medi-Cal program for the same or similar services, including
21 prescription drugs, as identified by the State Department of Health
22 Care Services.

23 (2) A health care service plan shall provide reimbursement for
24 services provided pursuant to this section in compliance with the
25 requirements for timely payment of claims, as required by this
26 chapter.

27 (d) Services provided to an enrollee pursuant to a CARE plan
28 shall not be subject to copayment, coinsurance, deductible, or any
29 other form of cost sharing. An individual or entity shall not bill
30 the enrollee or subscriber, nor seek reimbursement from the
31 enrollee or subscriber, for services provided pursuant to a CARE
32 plan.

33 (e) No later than July 1, 2023, the director of the Department
34 of Managed Health Care may issue guidance to health care service
35 plans regarding compliance with this section. This guidance shall
36 not be subject to the Administrative Procedure Act (Chapter 3.5
37 (commencing with Section 11340) of Part 1 of Division 3 of Title
38 2 of the Government Code). Guidance issued pursuant to this
39 subdivision shall be effective only until the director adopts
40 regulations pursuant to the Administrative Procedure Act.

1 (f) *This section does not apply to Medi-Cal managed care*
2 *contracts entered pursuant to Chapter 7 (commencing with Section*
3 *14000), Chapter 8 (commencing with Section 14200), or Chapter*
4 *8.75 (commencing with Section 14591) of Part 3 of Division 9 of*
5 *the Welfare and Institutions Code, between the State Department*
6 *of Health Care Services and a health care service plan for enrolled*
7 *Medi-Cal beneficiaries.*

8 (g) *This section shall become operative on July 1, 2023.*

9 *SEC. 3. Section 1370.01 of the Penal Code is amended to read:*

10 1370.01. (a) If the defendant is found mentally competent, the
11 criminal process shall resume, and the trial on the offense charged
12 or hearing on the alleged violation shall proceed.

13 (b) If the defendant is found mentally incompetent, the trial,
14 judgment, or hearing on the alleged violation shall be suspended
15 and the court may do either of the following:

16 (1) (A) Conduct a hearing, pursuant to Chapter 2.8A
17 (commencing with Section 1001.35) of Title 6, and, if the court
18 deems the defendant eligible, grant diversion pursuant to Section
19 1001.36 for a period not to exceed one year from the date the
20 individual is accepted into diversion or the maximum term of
21 imprisonment provided by law for the most serious offense charged
22 in the misdemeanor complaint, whichever is shorter.

23 (B) If the court opts to conduct a hearing pursuant to this
24 paragraph, the hearing shall be held no later than 30 days after the
25 finding of incompetence. If the hearing is delayed beyond 30 days,
26 the court shall order the defendant to be released on their own
27 recognizance pending the hearing.

28 (C) If the defendant performs satisfactorily on diversion pursuant
29 to this section, at the end of the period of diversion, the court shall
30 dismiss the criminal charges that were the subject of the criminal
31 proceedings at the time of the initial diversion.

32 (D) If the court finds the defendant ineligible for diversion based
33 on the circumstances set forth in subdivision (b) or (d) of Section
34 1001.36, the court may, after notice to the defendant, defense
35 counsel, and the prosecution, hold a hearing to determine whether
36 to do any of the following:

37 (i) Order modification of the treatment plan in accordance with
38 a recommendation from the treatment provider.

39 (ii) Refer the defendant to assisted outpatient treatment pursuant
40 to Section 5346 of the Welfare and Institutions Code. A referral

1 to assisted outpatient treatment may only occur in a county where
2 services are available pursuant to Section 5348 of the Welfare and
3 Institutions Code, and the agency agrees to accept responsibility
4 for treatment of the defendant. A hearing to determine eligibility
5 for assisted outpatient treatment shall be held within 45 days after
6 the date of the referral. If the hearing is delayed beyond 45 days,
7 the court shall order the defendant, if confined in county jail, to
8 be released on their own recognizance pending that hearing. If the
9 defendant is accepted into assisted outpatient treatment, the charges
10 shall be dismissed pursuant to Section 1385.

11 (iii) Refer the defendant to the county conservatorship
12 investigator in the county of commitment for possible
13 conservatorship proceedings for the defendant pursuant to Chapter
14 3 (commencing with Section 5350) of Part 1 of Division 5 of the
15 Welfare and Institutions Code. A defendant shall only be referred
16 to the conservatorship investigator if, based on the opinion of a
17 qualified mental health expert, the defendant appears to be gravely
18 disabled, as defined in subparagraph (A) of paragraph (1) of
19 subdivision (h) of Section 5008 of the Welfare and Institution
20 Code. Any hearings required in the conservatorship proceedings
21 shall be held in the superior court in the county of commitment.
22 The court shall transmit a copy of the order directing initiation of
23 conservatorship proceedings to the county mental health director
24 or the director's designee and shall notify the county mental health
25 director or their designee of the outcome of the proceedings. Before
26 establishing a conservatorship, the public guardian shall investigate
27 all available alternatives to conservatorship pursuant to Section
28 5354 of the Welfare and Institutions Code. If a petition is not filed
29 within 60 days of the referral, the court shall order the defendant,
30 if confined in county jail, to be released on their own recognizance
31 pending conservatorship proceedings. If the outcome of the
32 conservatorship proceedings results in the establishment of
33 conservatorship, the charges shall be dismissed pursuant to Section
34 1385.

35 (iv) *Refer the defendant to the CARE program pursuant to*
36 *Section 5978 of the Welfare and Institutions Code. A hearing to*
37 *determine eligibility for CARE shall be held within 14 days after*
38 *the date of the referral. If the hearing is delayed beyond 14 days,*
39 *the court shall order the defendant, if confined in county jail, to*
40 *be released on their own recognizance pending that hearing. If*

1 *the defendant successfully completes CARE, the charges shall be*
2 *dismissed pursuant to Section 1385.*

3 (2) Dismiss the charges pursuant to Section 1385. If the criminal
4 action is dismissed, the court shall transmit a copy of the order of
5 dismissal to the county mental health director or the director’s
6 designee.

7 (c) If the defendant is found mentally incompetent and is on a
8 grant of probation for a misdemeanor offense, the court shall
9 dismiss the pending revocation matter and may return the defendant
10 to supervision. If the revocation matter is dismissed pursuant to
11 this subdivision, the court may modify the terms and conditions
12 of supervision to include appropriate mental health treatment.

13 (d) It is the intent of the Legislature that a defendant subject to
14 the terms of this section receive mental health treatment in a
15 treatment facility and not a jail. A term of four days will be deemed
16 to have been served for every two days spent in actual custody
17 against the maximum term of diversion. A defendant not in actual
18 custody shall otherwise receive day for day credit against the term
19 of diversion from the date the defendant is accepted into diversion.
20 “Actual custody” has the same meaning as in Section 4019.

21 (e) This section shall apply only as provided in subdivision (b)
22 of Section 1367.

23 *SEC. 4. Part 8 (commencing with Section 5970) is added to*
24 *Division 5 of the Welfare and Institutions Code, to read:*

25
26 *PART 8. THE COMMUNITY ASSISTANCE, RECOVERY, AND*
27 *EMPOWERMENT ACT*

28
29 *CHAPTER 1. GENERAL PROVISIONS*

30
31 *5970. This part shall be known, and may be cited, as*
32 *Community Assistance, Recovery, and Empowerment (CARE) Act.*

33 *5971. Unless the context otherwise requires, the following*
34 *definitions shall govern the construction of this part.*

35 (a) “Court-ordered evaluation” means an evaluation ordered
36 by a superior court pursuant to Section 5977.

37 (b) “CARE plan” means an individualized, clinically
38 appropriate range of behavioral health related services and
39 supports provided by a county behavioral health agency, including,

1 *but not limited to, clinical care, stabilization medications, and a*
2 *housing plan, pursuant to Section 5982.*

3 (c) *“Graduation plan” means a plan that is developed by the*
4 *person who is the subject of the petition, with assistance from a*
5 *supporter; as needed, and the person’s treatment team. The*
6 *graduation plan shall include a strategy to support a successful*
7 *transition out of court jurisdiction and may include a psychiatric*
8 *advance directive. The graduation plan may also include, but is*
9 *not limited to, on-going behavioral health services, including*
10 *medication management, peer support services, housing and*
11 *related support services, vocational or educational services, and*
12 *psychoeducation.*

13 (d) *“Psychiatric advance directive” means a legal document*
14 *that allows a person with mental illness to protect their autonomy*
15 *and ability to self-direct care by documenting their preferences*
16 *for treatment in advance of a mental health crisis.*

17 (e) *“Respondent” means the person who is subject to the petition*
18 *for CARE court proceedings.*

19 (f) *“Supporter” means an adult, trained pursuant to Chapter*
20 *4 (commencing with Section 5980), who assists the person who is*
21 *the subject of the petition, which may include supporting the person*
22 *to understand, make, communicate, implement, or act on their own*
23 *life decisions.*

24
25 *CHAPTER 2. PROCESS*
26

27 5972. *A court may order a respondent to participate in CARE*
28 *proceedings if the court finds, by clear and convincing evidence,*
29 *that the facts stated in the petition are true and establish that the*
30 *requisite criteria set forth in this section are met, including all of*
31 *the following:*

32 (a) *The person is 18 years of age or older.*

33 (b) *The person has a diagnosis of schizophrenia spectrum or*
34 *other psychotic disorder, as defined in the most current version*
35 *of the Diagnostic and Statistical Manual of Mental Disorders.*

36 (c) *The person is not clinically stabilized in on-going treatment*
37 *with the county behavioral health agency.*

38 (d) *The person currently lacks medical decisionmaking capacity.*

39 5973. *Proceedings under this part may be commenced in any*
40 *of the following:*

- 1 (a) *The county in which the respondent resides.*
2 (b) *The county where the respondent is found.*
3 (c) *The county where the respondent is facing criminal or civil*
4 *proceedings.*
5 5974. *The following persons may file a petition to initiate CARE*
6 *proceedings:*
7 (a) *A person 18 years of age or older with whom the respondent*
8 *resides.*
9 (b) *A spouse, parent, sibling, or adult child of the respondent.*
10 (c) *The director of a hospital, or their designee, in which the*
11 *respondent is hospitalized, including hospitalization pursuant to*
12 *Section 5150 or 5250.*
13 (d) *The director of a public or charitable organization, agency,*
14 *or home, or their designee, currently or previously providing*
15 *behavioral health services to the respondent or in whose institution*
16 *the respondent resides.*
17 (e) *A qualified behavioral health professional, or their designee,*
18 *who is, or has been, either supervising the treatment of, or treating*
19 *the respondent for a mental illness.*
20 (f) *A first responder, including a peace officer, firefighter,*
21 *paramedic, emergency medical technician, mobile crisis response*
22 *worker, or homeless outreach worker.*
23 (g) *The public guardian or public conservator, or their designee,*
24 *of the county in which the respondent is present or reasonably*
25 *believed to be present.*
26 (h) *The director of a county behavioral health agency, or their*
27 *designee, of the county in which the respondent is present or*
28 *reasonably believed to be present.*
29 5975. *The petition shall be signed under the penalty of perjury*
30 *and contain all of the following:*
31 (a) *The name of the court to which it is addressed.*
32 (b) *The title of the proceeding.*
33 (c) *The name, age, and address, if any, of the respondent.*
34 (d) *The code section and the subdivision under which the*
35 *proceedings are instituted.*
36 (e) *The petitioner's relationship with the respondent.*
37 (f) *Facts that support the petitioner's belief that the respondent*
38 *meets the CARE criterion, including identification of the county*
39 *behavioral health agency with responsibility for providing care*
40 *to the respondent, if known.*

1 (g) *Either of the following:*

2 (1) *An affirmation or affidavit of a qualified behavioral health*
3 *professional, stating that the qualified behavioral health*
4 *professional or their designee has examined the respondent within*
5 *three months of the submission of the petition, or has made*
6 *appropriate attempts, but has not been successful, in eliciting the*
7 *cooperation of the respondent to submit to an examination, and*
8 *that the qualified behavioral health professional had determined*
9 *that, based on an examination or a review of records and collateral*
10 *interviews, the respondent meets, or is likely to meet, the diagnostic*
11 *criteria for CARE proceedings.*

12 (2) *Evidence that the respondent was detained for intensive*
13 *treatment pursuant to Article 4 (commencing with Section 5250)*
14 *of Chapter 2 of Part 1 within the previous 90 days.*

15 5976. *The respondent shall have all of the following rights:*

16 (a) *To receive notice of the hearings.*

17 (b) *To receive a copy of the court-ordered evaluation.*

18 (c) *To be represented by counsel at all stages of a proceeding*
19 *commenced under this chapter.*

20 (d) *To a supporter, as described in Section 5982.*

21 (e) *To be present at the hearing unless the respondent waives*
22 *the right to be present or the court makes a finding described in*
23 *Section 5977 or appears remotely.*

24 (f) *To present evidence.*

25 (g) *To call witnesses.*

26 (h) *To cross-examine witnesses.*

27 (i) *To appeal decisions, and to be informed of the right to*
28 *appeal.*

29 5977. (a) (1) *Upon receipt by the court of a petition, the court*
30 *shall set an initial hearing not later than 14 days from the date*
31 *the petition is filed with the court.*

32 (2) *The court shall appoint counsel and a supporter within five*
33 *calendar days of filing.*

34 (3) *The petitioner shall be responsible for providing notice of*
35 *the hearing to the respondent, the respondent's counsel and*
36 *supporter, and the county behavioral health agency in the county*
37 *where the respondent resides.*

38 (b) (1) *At the initial hearing, which shall occur 14 days after*
39 *the petition is filed with the court, the court shall determine if the*
40 *respondent meets the CARE criteria.*

1 (2) *All of the following shall be required for the hearing:*

2 (A) *The petitioner shall be present. If the petitioner is not*
3 *present, the matter shall be dismissed.*

4 (B) *The respondent may waive their appearance and appear*
5 *through their counsel. If the respondent does not waive their*
6 *appearance and does not appear at the hearing, and appropriate*
7 *attempts to elicit the attendance of the respondent have failed, the*
8 *court may conduct the hearing in the respondent's absence. If the*
9 *hearing is conducted without the respondent present, the court*
10 *shall set forth the factual basis for doing so.*

11 (C) *A representative from the county behavioral health agency*
12 *shall be present.*

13 (D) *The supporter shall be allowed to be present.*

14 (3) (A) *The court shall determine if the petitioner has presented*
15 *prima facie evidence that respondent meets the CARE criteria.*

16 (B) *If the court finds that the petitioner has not presented*
17 *sufficient prima facie evidence, the court shall dismiss the case*
18 *without prejudice, unless the court makes a finding on the record*
19 *that the petitioner's filing was not in good faith.*

20 (C) *If the court finds that the petitioner has submitted prima*
21 *facie evidence that the respondent meets the CARE criteria, the*
22 *court shall order the county behavioral health agency to work with*
23 *the respondent and the respondent's counsel and supporter to*
24 *determine if the respondent shall engage in a treatment plan. A*
25 *case management conference shall be set for no later than 14 days*
26 *after the court makes its finding.*

27 (c) (1) *At the case management conference hearing, the court*
28 *shall determine if a settlement agreement may be entered into by*
29 *the parties.*

30 (2) *The case management conference may be continued for up*
31 *to 14 days upon stipulation of the respondent and the county*
32 *behavioral health agency.*

33 (3) *The court's findings that a settlement agreement may be*
34 *entered into by the parties shall require a recitation of all terms*
35 *and conditions on the record.*

36 (4) *If the court finds that parties have agreed to a settlement*
37 *agreement, and the court agrees with the terms of the agreement,*
38 *the court shall stay the matter and set a progress hearing for 60*
39 *days.*

1 (5) (A) *If the court finds that the parties are not likely to reach*
2 *a settlement agreement, the court shall order a clinical evaluation*
3 *of the respondent unless the parties stipulate otherwise.*

4 (B) *The court shall order the county behavioral health agency*
5 *to conduct the evaluation unless the parties stipulate otherwise.*

6 (C) *The court shall set a hearing to review the evaluation within*
7 *14 days.*

8 (D) *The evaluation shall be confidential pursuant to Section*
9 *5200.*

10 (d) (1) *At the evaluation review hearing, the court shall review*
11 *the evaluation and any other evidence from all interested*
12 *individuals, including, but not limited to, evidence from the*
13 *petitioner, the county behavioral health agency, the respondent,*
14 *and the supporter.*

15 (2) *The hearing may be continued a maximum of 14 days upon*
16 *stipulation of the respondent and the county behavioral health*
17 *agency.*

18 (3) (A) *If the court finds that the evaluation and other evidence*
19 *demonstrate by clear and convincing evidence that the respondent*
20 *meets the CARE criteria, the court shall order the county*
21 *behavioral health agency, the respondent, and the respondent's*
22 *counsel and supporter to jointly develop a CARE plan.*

23 (B) *The respondent and the county behavioral health agency*
24 *may request appellate writ review of the order to develop a CARE*
25 *plan.*

26 (C) *A hearing to approve the CARE plan shall be set not more*
27 *than 14 days from the date of the order to develop a CARE plan.*

28 (4) *If the court finds that the evidence does not, by clear and*
29 *convincing evidence, support that the respondent meets the CARE*
30 *criteria, the court shall dismiss the petition without prejudice.*

31 (e) (1) *The plan approval and implementation hearing to*
32 *approve the CARE plan shall occur within 14 days after date of*
33 *the order to develop a CARE plan.*

34 (2) *The CARE plan may be presented by both or either of the*
35 *parties. After presentation, the court may do any of the following:*

36 (A) *Approve the plan as presented and make any orders*
37 *necessary for the implementation of the plan.*

38 (B) *Order the plan modified to better meet the needs of the*
39 *parties, approve the plan as modified, within the scope of the*

1 county behavioral health agency's services, and make any orders
2 necessary for the implementation of the plan.

3 (C) Reject the plan and order the parties to continue to work
4 on the plan. The court shall set a subsequent hearing for no more
5 than 14 days after rejecting the proposed plan.

6 (3) (A) If the court rejects the plan or if there is no CARE plan
7 because the parties have not had sufficient time to complete it, the
8 court may grant a continuance for no more than 14 days.

9 (B) At the subsequent CARE plan approval and implementation
10 hearing, the court shall review the CARE plan, at which time the
11 court may do either of the following:

12 (i) Approve the plan as presented and make any orders
13 necessary to implement the plan.

14 (ii) Order the plan modified, within the scope of the county
15 behavioral health agency's services, to better meet the needs of
16 the parties, approve the plan as modified, and make any orders
17 necessary to implement the plan.

18 (4) Court approval of the CARE plan begins the one-year CARE
19 program timeline.

20 (f) The court shall schedule a status conference for 60 days after
21 the approval of the CARE plan to review the progress of the CARE
22 plan's implementation.

23 (g) (1) The 60-day status conference shall be followed by
24 regular status conferences set by the court, at least every 180 days.

25 (2) Intermittent lapses or setbacks experienced by the respondent
26 shall be reviewed by the court.

27 (h) (1) In the 11th month of the program timeline, the court
28 shall hold a one-year status hearing. At that hearing, the court
29 shall determine whether to graduate the respondent from the
30 program with a graduation plan or reappoint the respondent to
31 the program for another term, not to exceed one year.

32 (2) The one-year status hearing shall be an evidentiary hearing.
33 All parties shall be permitted to speak, present evidence, and the
34 court shall hear recommendations from the county behavioral
35 health agency.

36 (3) If the respondent has successfully completed participation
37 in the one-year CARE program, the respondent shall not be
38 reappointed to the program.

39 (4) At the one-year status hearing, the respondent may request
40 graduation or reappointment to the CARE program. If the

1 *respondent elects to accept voluntary reappointment to the*
2 *program, the respondent may request any amount of time, up to*
3 *and including one additional year, to be reappointed to the CARE*
4 *program.*

5 *(5) If the respondent requests to be graduated from, or times*
6 *out of, the program, the court shall officially graduate the*
7 *respondent and terminate its jurisdiction with a graduation plan.*

8 *(6) Upon completion, for a respondent who was transferred*
9 *from another court, the referring court shall be given notice of*
10 *completion and the underlying matter shall be terminated.*

11 *(i) The hearings described in this section shall occur in-person*
12 *unless the court, in its discretion, determines that a party may*
13 *appear remotely through the use of remote technology.*

14 *(j) Consistent with its constitutional rulemaking authority, the*
15 *Judicial Council shall adopt rules to implement the policies and*
16 *provisions in this section to promote statewide consistency,*
17 *including, but not limited to, what is included in the petition form*
18 *packet, the clerk's review of the petition, and the process by which*
19 *counsel and supporter will be appointed.*

20 *5978. (a) A court may refer an individual from assisted*
21 *outpatient treatment and conservatorship proceedings to CARE*
22 *proceedings.*

23 *(b) A court may refer an individual from misdemeanor*
24 *proceedings pursuant to Section 1370.01 of the Penal Code.*

25
26 *CHAPTER 3. ACCOUNTABILITY*
27

28 *5979. (a) If, at any time during the proceedings, the court*
29 *determines by a preponderance of evidence that the respondent is*
30 *not participating in CARE proceedings, after the respondent*
31 *receives notice, or is failing to comply with their CARE plan, the*
32 *court may terminate the respondent's participation in the CARE*
33 *program. The court may utilize existing legal authority pursuant*
34 *to Article 4 (commencing with Section 5200) of Chapter 2 of Part*
35 *1, to ensure the respondent's safety. The subsequent proceedings*
36 *may use the CARE proceedings as a factual presumption that no*
37 *suitable community alternatives are available to treat the*
38 *individual.*

39 *(b) If, at any time during the proceedings, the court finds that*
40 *the county is not complying with court orders, the court may fine*

1 the county up to one thousand dollars (\$1,000) per day for
2 noncompliance. If a county is found to be persistently
3 noncompliant, the court may appoint a receiver to secure
4 court-ordered care for the respondent at the county's cost.

5 (c) Either the respondent or the county behavioral health agency
6 may appeal an adverse court determination to the appellate
7 division of the superior court.

8

9

CHAPTER 4. THE SUPPORTER

10

11 5980. (a) Subject to appropriation, the California Department
12 of Aging shall administer the CARE Supporter program, which
13 shall make available a trained supporter to the respondent. The
14 department shall train the supporter on supported decisionmaking
15 with individuals who have behavioral health conditions and on
16 the use of psychiatric advance directives, with support and input
17 from peers, family members, disability groups, providers, and
18 other relevant stakeholders. The department may enter into a
19 technical assistance and training agreement to provide trainings
20 either directly to supporters or to the contracted entities who will
21 be responsible for hiring and matching supporters to respondents.
22 The CARE Supporter program contracts shall include labor
23 standards.

24 (b) The CARE Supporter program shall be designed to do all
25 of the following:

26 (1) Offer the respondent a flexible and culturally responsive
27 way to maintain autonomy and decisionmaking authority over
28 their own life by developing and maintaining voluntary supports
29 to assist them in understanding, making, communicating, and
30 implementing their own informed choices.

31 (2) Strengthen the respondent's capacity and prevent or remove
32 the need to use more restrictive protective mechanisms, such as
33 conservatorship.

34 (3) Assist the respondent with understanding, making, and
35 communicating decisions and expressing preferences throughout
36 the CARE court process.

37 (c) If the respondent chooses to have a supporter who was not
38 trained pursuant to this section, that person may serve as a
39 supporter without compensation.

1 5981. (a) Notwithstanding any other provision of this part,
2 the respondent may have their supporter present, if available, in
3 any meeting, judicial proceeding, or communication related to
4 any of the following:

- 5 (1) An evaluation.
- 6 (2) Creation of a CARE plan.
- 7 (3) Establishing a psychiatric advance directive.
- 8 (4) Development of a graduation plan.

9 (b) A supporter shall do all the following, to the best of their
10 ability and to the extent reasonably possible:

- 11 (1) Support the will and preferences of the respondent.
- 12 (2) Respect the values, beliefs, and preferences of the
13 respondent.
- 14 (3) Act honestly, diligently, and in good faith.
- 15 (4) Avoid, to the greatest extent possible, and disclose, minimize,
16 and manage, conflicts of interest.

17 (c) Unless explicitly authorized, a supporter shall not do any
18 of the following:

- 19 (1) Make decisions for, or on behalf of, the respondent, except
20 when necessary to prevent imminent bodily harm or injury.
- 21 (2) Sign documents on behalf of the respondent.
- 22 (3) Substitute their own judgment for the decision or preference
23 of the respondent.

24 (d) In addition to the obligations in this section, a supporter
25 shall be bound by all existing obligations and prohibitions
26 otherwise applicable by law that protect people with disabilities
27 and the elderly from fraud, abuse, neglect, coercion, or
28 mistreatment. This section does not limit a supporter's civil or
29 criminal liability for prohibited conduct against the respondent,
30 including liability for fraud, abuse, neglect, coercion, or
31 mistreatment, including liability under the Elder Abuse and
32 Dependent Adult Civil Protection Act (Chapter 11 (commencing
33 with Section 15600) of Part 3 of Division 9), including, but not
34 limited to, Sections 15656 and 15657.

35
36 *CHAPTER 5. CARE PLAN*
37

38 5982. The CARE plan shall be created by the respondent, their
39 supporter and counsel, and the county behavioral health agency.
40 The plan shall include all of the following components:

1 (a) (1) Behavioral health treatment, which includes medically
2 necessary mental health or substance use disorder treatment, or
3 both.

4 (2) If the respondent is enrolled in the Medi-Cal program, the
5 county shall provide all medically necessary specialty mental
6 health and substance use disorder treatment services, as those
7 services are defined in the Medi-Cal program and consistent with
8 their responsibilities thereunder, to a respondent when included
9 in their court ordered CARE plan. Specialty mental health services
10 and substance use disorder treatment services may be included in
11 the CARE plan if they are determined to be medically necessary
12 by the clinical evaluation. If the respondent is an enrollee in a
13 health care service plan, other than a Medi-Cal managed care
14 plan, the services shall be provided and reimbursed pursuant to
15 Section 1374.723 of the Health and Safety Code.

16 (3) Counties are encouraged to employ medically necessary,
17 evidence-based practices and promising practices supported with
18 community-defined evidence, which may include assertive
19 community treatment, peer support services, and psychoeducation.

20 (b) (1) As part of the provision of behavioral health care, the
21 care plan may include medically necessary stabilization
22 medications, including antipsychotic medications. If medically
23 necessary, medications may be provided as long-acting injections.

24 (2) Court ordered stabilization medications shall not be forcibly
25 administered, absent a separate order by the court pursuant to
26 Sections 5332 to 5336, inclusive.

27 (3) Medically necessary stabilization medications may be
28 prescribed by the treating licensed behavioral health care provider
29 and medication support services shall be offered. The respondent,
30 in the development and on-going maintenance of the plan, shall
31 work with their behavioral health care provider and their supporter
32 to address medication concerns and make changes to the treatment
33 plan.

34 (c) A housing plan that describes the housing needs of the
35 respondent and the housing resources that will be considered in
36 support of an appropriate housing placement. The respondent
37 shall have diverse housing options, including, but not limited to,
38 housing in clinically enhanced interim or bridge housing, licensed
39 adult and senior care settings, and supportive housing. Counties
40 may offer appropriate housing placements in the region as early

1 *as feasible in the engagement process. This section does not allow*
2 *the court to order housing or to require the county to provide*
3 *housing.*

4

5 *CHAPTER 6. TECHNICAL ASSISTANCE AND ADMINISTRATION*

6

7 5983. (a) *Subject to appropriation, the State Department of*
8 *Health Care Services shall provide technical assistance to county*
9 *behavioral health agencies to support the implementation of this*
10 *part, including trainings regarding the CARE model and statute*
11 *and data collection.*

12 (b) *Subject to appropriation, the State Department of Health*
13 *Care Services shall administer the Behavioral Health Bridge*
14 *Housing program to provide funding for clinically enhanced bridge*
15 *housing settings to serve individuals who are experiencing*
16 *homelessness and have behavioral health conditions. Individuals*
17 *who are CARE program participants shall be prioritized for any*
18 *appropriate bridge housing funded by the Behavioral Health*
19 *Bridge Housing program.*

20 (c) *Subject to appropriation, the Judicial Council shall provide*
21 *technical assistance to judges to support the implementation of*
22 *this part, including trainings regarding the CARE model and*
23 *statutes, working with the supporter, best practices, and*
24 *evidence-based models of care for people with severe behavioral*
25 *health conditions.*

26 5984. (a) *For purposes of implementing this part, the*
27 *California Health and Human Services Agency, the State*
28 *Department of Health Care Services, and the California*
29 *Department of Aging may enter into exclusive or nonexclusive*
30 *contracts, or amend existing contracts, on a bid or negotiated*
31 *basis. Contracts entered into or amended pursuant to this part*
32 *shall be exempt from Chapter 6 (commencing with Section 14825)*
33 *of Part 5.5 of Division 3 of Title 2 of the Government Code, Section*
34 *19130 of the Government Code, Part 2 (commencing with Section*
35 *10100) of Division 2 of the Public Contract Code, and the State*
36 *Administrative Manual, and shall be exempt from the review or*
37 *approval of any division of the Department of General Services.*

38 (b) *Notwithstanding Chapter 3.5 (commencing with Section*
39 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
40 *the California Health and Human Services Agency, the State*

1 Department of Health Care Services, and the California
 2 Department of Aging may implement, interpret, or make specific
 3 this part, in whole or in part, by means of plan letters, information
 4 notices, provider bulletins, or other similar instructions, without
 5 taking any further regulatory action.

6 SEC. 5. No reimbursement is required by this act pursuant to
 7 Section 6 of Article XIII B of the California Constitution for certain
 8 costs that may be incurred by a local agency or school district
 9 because, in that regard, this act creates a new crime or infraction,
 10 eliminates a crime or infraction, or changes the penalty for a crime
 11 or infraction, within the meaning of Section 17556 of the
 12 Government Code, or changes the definition of a crime within the
 13 meaning of Section 6 of Article XIII B of the California
 14 Constitution.

15 However, if the Commission on State Mandates determines that
 16 this act contains other costs mandated by the state, reimbursement
 17 to local agencies and school districts for those costs shall be made
 18 pursuant to Part 7 (commencing with Section 17500) of Division
 19 4 of Title 2 of the Government Code.

20 SECTION 1. ~~Part 1.3 (commencing with Section 5565) is~~
 21 ~~added to Division 5 of the Welfare and Institutions Code, to read:~~

22

23 ~~PART 1.3. COMMUNITY ASSISTANCE, RECOVERY, AND~~
 24 ~~EMPOWERMENT (CARE) COURT PROGRAM~~

25

26 5565. ~~(a) The Community Assistance, Recovery, and~~
 27 ~~Empowerment (CARE) Court Program is hereby established to~~
 28 ~~connect a person struggling with untreated mental illness and~~
 29 ~~substance use disorders with a court-ordered CARE plan.~~

30 ~~(b) (1) A court may order a person who is the subject of a~~
 31 ~~petition filed pursuant to this section to obtain treatment and~~
 32 ~~services under a CARE plan if the court finds that the facts stated~~
 33 ~~in the verified petition are true and established and the criteria set~~
 34 ~~in this section are met, including, but not limited to, each of the~~
 35 ~~following:~~

- 36 ~~(A) The person is 18 years of age or older.~~
- 37 ~~(B) The person is suffering from a mental illness and a substance~~
 38 ~~use disorder.~~
- 39 ~~(C) The person lacks medical decisionmaking capacity.~~

1 ~~(2) A court may order the person to have a CARE plan for up~~
2 ~~to 12 months, and may renew the plan for up to another 12 months.~~
3 ~~The court shall conduct periodic review hearings.~~

4 ~~(3) A person who is ordered under a CARE plan who does not~~
5 ~~complete the plan may be referred to conservatorship pursuant to~~
6 ~~Chapter 3 (commencing with Section 5350) of Part 1, and it shall~~
7 ~~be presumed that there are no suitable alternatives to~~
8 ~~conservatorship available to the person~~

9 ~~(e) A petition for an order authorizing a CARE plan may be~~
10 ~~filed by a family member, county representative, community-based~~
11 ~~social services provider, behavioral health provider, or first~~
12 ~~responder in the superior court in the county in which the person~~
13 ~~who is the subject of the petition is present or reasonably believed~~
14 ~~to be present.~~

15 ~~(d) (1) A CARE plan shall be managed by a CARE team in the~~
16 ~~community, and may include clinically prescribed and~~
17 ~~individualized interventions with several supportive services,~~
18 ~~including, but not limited to, medication and housing.~~

19 ~~(2) The CARE team shall consist of clinical team members, a~~
20 ~~public defender, and a support person to help make self-directed~~
21 ~~care decisions.~~

22 ~~(e) (1) Each county shall participate in providing services under~~
23 ~~the program.~~

24 ~~(2) The court may order sanctions or appoint an agent to ensure~~
25 ~~the county provides services under the program.~~

26 ~~SEC. 2. If the Commission on State Mandates determines that~~
27 ~~this act contains costs mandated by the state, reimbursement to~~
28 ~~local agencies and school districts for those costs shall be made~~
29 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
30 ~~4 of Title 2 of the Government Code.~~