

# CARE ACT/ SB 1338

Updated to Reflect June 30,2022 Amendments

California Health & Human Services Agency  
*Person Centered. Equity Focused. Data Driven.*





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# CARE

(Community Assistance, Recovery and Empowerment)

# Court



# CARE Court Overview

# Community Assisted Empowerment and Recovery (CARE) Court

- **CARE** is a new pathway to access much needed comprehensive treatment and services.
- **CARE** aims to deliver behavioral health services to the **most severely ill and vulnerable individuals**, while supporting **self-determination** to the greatest extent possible and community living.
- **CARE** is an **upstream diversion to prevent** more restrictive **conservatorships or incarceration**.
- **CARE** is based on **evidence** which demonstrates that many **people can stabilize**, begin healing, and **exit homelessness in less restrictive, community-based care settings**.
- **CARE** seeks both **participant** and **system success**.
- **CARE Court is NOT** for everyone experiencing **homelessness or mental illness**.

# Community Assisted Empowerment and Recovery (CARE) Court is Different

- **CARE** is fundamentally different from **LPS Conservatorship** in that it **does not include custodial settings** or **long-term involuntary medications**
- **CARE is different than LPS/Laura's Law in several important ways:**
  - **May be initiated by a petition to the Court** from a variety of people known to the participant (family, clinicians/ physicians, first responders, etc.) and **only credible petitions are pursued**
  - **Multiple** negative outcomes (**incarceration, hospitalizations, etc.**) are not required to be considered
  - **Local government and participants work together** and are both held to the CARE plan
  - Client may have a **Supporter** to assist in **identifying, voicing, and centering the individual's care decisions** in their CARE plan and graduation plan, including preparing a **Psychiatric Advanced Directive, if desired.**

# Criteria for CARE Respondent

- The person must be 18 years or older
- The person is experiencing severe mental illness and has a diagnosis of schizophrenia spectrum other psychotic disorder
- The person must not be clinically stabilized in on-going treatment
- CARE Court is the least restrictive alternative
- The person will benefit from CARE proceedings
- The person meets one of the following:
  - Unlikely to service safely in the community without supervision and the person's condition is substantially deteriorating and/or
  - Needs services and supports in order to prevent a relapse or deterioration that would be likely to result in grave disability or serious harm to the person or others, as defined in Section 5150

# CARE Pathways – Petition

- Petition is filed by spouse/family members/ friends, providers/clinicians, county BH, first responders, and others as specified in law
- Petition is promptly reviewed by the court. If it does not meet criteria it is dismissed. If criteria is met the court orders the county to investigate, and file a written report.
- The county agency will submit the written report to the court with findings and conclusions of the investigation, along with any recommendations.
- **If the county is making progress with engagement, an additional 30 days can be provided to continue support enrolling the individual in services.**
- **A court may refer an individual from assisted outpatient treatment and conservatorship proceedings to CARE proceedings.**
- **A court may refer an individual from misdemeanor proceedings** pursuant to Section 1370.01 of the Penal Code, in which case the prosecuting attorney may be the petitioner.

# CARE Pathways – Petition to Initial Hearing

- The court will review the report within 5 days
  - If the court determines that **voluntary engagement is effective**, and that the individual has enrolled in behavioral health treatment, the **court shall dismiss the matter.**
  - If the court determines that the respondent meets and **engagement is not effective**, the court shall set an **initial hearing within 14 days.**
- The court provides notice of the hearing to the petitioner and others as specified by law.
- At the initial hearing, the court determines whether the respondent meets the CARE criteria. If so, the **court orders the county behavioral health agency to work with the respondent, the respondent's counsel, and the CARE supporter to engage in behavioral health treatment.**
- The court will set a case management hearing within 14 days.



# CARE Pathways – Case Management Conference to Care Agreement

- If the court finds that **the parties have agreed to a CARE agreement**, and the court approves, the court will set a **progress hearing for 60 days**.
- If the court finds that the parties have **not reached a CARE agreement**, the court will order a **clinical evaluation** of the respondent.
- The court will order the county behavioral health agency, through a **licensed behavioral health professional, to conduct the evaluation**.
- The court shall set a **clinical evaluation hearing within 14 days**.

# CARE Pathways – Clinical Evaluation to Care Plan

- If at the **clinical evaluation hearing** the court finds that the respondent meets the CARE criteria, the **court will order the development a CARE plan. If not, the court shall dismiss the petition.**
- **Care Plan** is developed with the respondent, supporter, counsel and county **behavioral health.** The hearing to review and consider approval of the proposed CARE plan will occur in 14 days.
- After reviewing the proposed CARE plan, the **court may issue any orders necessary to support the respondent in accessing appropriate services and supports, including prioritization for those services and supports.**
- The issuance of the order approving the CARE plan begins the **up-to-one-year CARE program timeline.** At intervals of not less than 60 days during CARE plan implementation, the court will have a status review hearing.

# CARE Pathways – Care Plan to Graduation

- In the 11th month of the program, the court will hold a one-year status hearing where the court will determine whether to **graduate the respondent** from the program or **reappoint the respondent** to the program for another term, not to exceed one year.
- A **respondent may also voluntarily request reappointment** to the CARE program.
- The court will review the **voluntary agreement for a graduation plan** to support a successful transition out of court jurisdiction and **may include a psychiatric advance directive**.

# Accountability

# Individual Accountability

- If the court determines at any time during the proceeding that the participant is **not participating in CARE proceedings**, the **Court may terminate** the respondent's participation in the CARE program.
- The court may utilize **existing authority** to ensure an individual's safety. The court shall provide notice to the county behavioral health agency and the Public Conservator/Guardian if the court utilizes that authority.
- **Subsequent proceedings** may use the CARE proceedings as a **factual presumption** that no suitable community alternatives are available to treat the individual.

# Government Accountability

- The court can fine a county or other local government entity if it is not complying with CARE.
- The fines will be used to establish the CARE Act Accountability Fund.
  - *All moneys in the fund shall be used, upon appropriation, by the State Department of Health Care Services to support local government efforts that will serve individuals who have schizophrenia or other psychotic disorders and who experience, or are at risk of, homelessness, criminal justice involvement, hospitalization, or conservatorship.*

# Reporting and Evaluation

- DHCS will develop, in consultation with county behavioral health agencies, other relevant state or local government entities, disability rights groups, individuals with lived experience, families, counsel, racial justice experts, and other appropriate stakeholders, an annual CARE Act report.
- DHCS will provide information on the populations served and demographic data, stratified by age, sex, race, ethnicity, languages spoken, disability, sexual orientation, gender identity, health coverage source, and county, to the extent statistically relevant data is available.

# Reporting and Evaluation

- An independent, research-based entity will conduct an evaluation of the effectiveness of the CARE Act.
- The independent evaluation shall highlight racial, ethnic, and other demographic disparities, and include causal inference or descriptive analyses regarding the impact of the CARE Act on disparity reduction efforts.
- A preliminary report to the Legislature is due three years after the implementation date of the CARE Act with a final report due in five years.



# Community Partner Engagement & Feedback

To date we have received significant feedback on:

- Opportunity for early services and supports engagement
- Voluntary services should be prioritized
- Importance of the supporter role (supported decision-making model) as well as the role of peer support as part of the ongoing Care Plan
- Trauma informed policy and practices, addressing racial bias
- Need for housing resources to meet the needs of the participant
- Despite significant recent investments in the behavioral health continuum, concerns over service capacity, including workforce
- Concern that narrow eligibility criteria misses other high need, high vulnerability populations
- Concern over the implementation timeline in general, especially for small counties

# **Summary of Legislative Changes June 30 2022 Version**

# Key Changes

- Court directed county behavioral health engagement process
- 2-Phase County Implementation Process
- DHCS will provide training and technical assistance, including for voluntary Supporters. CalHHS will provide initial implementation coordination.
- Legal representation is provided by local qualified legal services project (i.e. Legal Aid), or by a Public Defender
- Creates the CARE Act Accountability fund at State Treasury
- Includes significant evaluation of CARE Court by requiring DHCS to produce a robust CARE Act report annually
- Includes an emphasis on trauma-informed care and addressing racial bias

# FAQs

# Why Doesn't CARE Include All Behavioral Health Conditions?

- **CARE is for people with a focused diagnosis** that is both severely impairing and also **highly responsive to treatment**, including stabilizing medications.
- **Broader behavioral health redesign** is being led by the Administration through to **create generational change** so all Californians have access to high quality, culturally responsive and easily accessible behavioral health care.
- **Critical investments** include **building new behavioral health capacity** through treatment and workforce infrastructure and **reducing fragmentation** in the behavioral health system--**both for mental health and substance use disorders.**

# Does CARE Guarantee Housing?

- **Housing is an important component of CARE** —finding stability and staying connected to treatment, even with the proper supports, is next to impossible while living outdoors, in a tent or a vehicle.
- **Care Plans will include a housing plan.** Individuals who are served by CARE Court will have diverse housing needs on a continuum ranging from clinically enhanced interim or bridge housing, licensed adult and senior care settings, supportive housing. The court may issue orders necessary to support the individual in accessing housing, including prioritization for these services and supports.
- **Governor's proposed 2022-2023 budget includes \$1.5 billion for Behavioral Health Bridge Housing,** which will fund clinically enhanced bridge housing settings that are well suited to serve CARE Court participants.
- **2021 Budget Act made a historic \$12 billion investment to prevent and end homelessness.**

# Why Courts?

- The courts are often in the **crosshairs of the lives of those suffering** from severe, decompensated mental illness.
- **Often it's the criminal courts not the civil courts.** By going upstream, CARE Court aims to serve individuals before they end up in the criminal court system or conservatorship.
- The **CARE courts are a vehicle for collaboration and coordination not compliance.** The CARE court process can be a supportive place that will start with a period of engagement.
- In the case, the **client can't participate** or the **government entities can't implement** an appropriate, person-centered plan, **then the court will deepen its engagement** and oversight.

# Does CARE Perpetuate Stigma?

- There are **well documented inequities** in clinical diagnosis and the court systems we have today. These are issues not to be taken lightly. We must **acknowledge these realities** and **address them in the formative design of the program.**
- Recent amendments ensure **standardized tools for assessment and evaluation** are reviewed by many with an **eye for ameliorating the features that drive inequity.**
- We can **train individuals participating in CARE court processes** to ensure they have keen awareness of these **drivers of inequity and their own role in perpetuating them.**
- We can **engage communities and stakeholders** not just in these formative days of the Care Court proposal, but **regularly as the program develops** over the next few years.



# How is Self-Determination supported in the CARE Court model?

- Supporting a self-determined path to recovery and self-sufficiency is core to CARE Court.
- Each participant is offered a Legal Aid counselor and may choose a CARE Supporter in addition to their full clinical team.
- The CARE Plan ensures that supports and services are coordinated and focused on the individual needs of the person it is designed to serve.

# Resources

[CARE Court - California Health and Human Services](#)