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## SB-1338 Community Assistance, Recovery, and Empowerment (CARE) Court Program. (2021-2022)

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

### SENATE BILL

**NO. 1338**

**Introduced by Senators Umberg and Eggman**

**(Coauthors: Senators Allen, Archuleta, Caballero, Cortese, Dodd, Hertzberg, Newman, Portantino, Stern, and Wiener)**

**(Coauthors: Assembly Members Aguiar-Curry, Berman, *Bloom*, Chen, Cooper, Cunningham, Gipson, Haney, Irwin, O'Donnell, Petrie-Norris, Rodriguez, Santiago, and Villapudua)**

**February 18, 2022**

An act to add Section 1374.723 to the Health and Safety Code, to add Section 10144.54 to the Insurance Code, to amend Section 1370.01 of the Penal Code, and to amend Sections 5801 and 5813.5 of, 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.

(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, 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 enact the Community Assistance, Recovery, and Empowerment (CARE) Act, which would authorize specified persons to petition a civil court to create a voluntary CARE agreement or a court-ordered CARE plan and implement services, to be provided by county behavioral health agencies, to provide behavioral health care, including stabilization medication, housing, and other enumerated services to adults who are ~~suffering from~~ *currently experiencing a severe mental illness and have a diagnosis of* schizophrenia spectrum and psychotic disorders and who

meet other specified criteria. 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 facts that support the petitioner's assertion that the respondent meets the CARE criteria. The bill would also specify the schedule of review hearings required if the respondent is ordered to comply with an up to one-year CARE plan by the court. The bill would make the hearings in a CARE proceeding confidential and not open to the public, thereby limiting public access to a meeting of a public body. The bill would authorize the CARE plan to be extended once, for up to one year, and would prescribe the requirements for the graduation ~~plan that is required upon leaving the CARE program.~~ *plan.* 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 require the court to appoint counsel ~~and a CARE supporter~~ for the respondent, unless the respondent has *retained* their own ~~counsel or CARE supporter, or chooses not to have a CARE supporter.~~ *counsel. The bill would authorize the respondent to have a supporter, as defined.* The bill would require the ~~California Department of Aging, subject to appropriation, to administer the CARE Supporter program, which would make available a trained CARE supporter to each respondent, who can accept, decline, or choose their own voluntary, unpaid CARE supporter. The bill would require optional training to be made available for volunteer CARE supporters.~~ *State Department of Health Care Services to provide optional training and technical resources for volunteer supporters on CARE Act proceedings, community services and supports, supported decisionmaking, and other topics, as prescribed.*

This bill, subject to appropriation, would require the *California Health and Human Services Agency, or a designated department within that agency, to engage an independent, research-based entity to advise on the development of data-driven process and outcome measures for the CARE Act and to provide coordination and support among relevant state and local partners and other stakeholders throughout the phases of county implementation of the CARE Act. The bill, also subject to appropriation, would require the* State Department of Health Care Services to provide *training and* technical assistance to county behavioral health agencies to implement the act and would require the Judicial Council and the State Department of Health Care Services to provide training to judges and counsel regarding the CARE Act, as specified.

This bill would authorize the court, at any time during the proceedings if it finds the county or other local government entity not complying with court orders, to fine the county or other local government entity 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. *The bill would establish the CARE Act Accountability Fund in the State Treasury to receive the fines collected under the Act, which would 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 who experience or are at risk of homelessness, criminal justice involvement, hospitalization, or conservatorship.*

This bill would require the *independent, research-based entity retained by the* State Department of Health Care Services, in consultation with various other entities, to develop an annual CARE Act report and an independent evaluation of the effectiveness of the CARE Act, and would require county behavioral health agencies and other local governmental entities to provide the department with specified information for that report. By increasing the duties of a local agency, this bill would impose a state-mandated local program.

Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Services Fund (MHSF), a continuously appropriated fund, to fund various county mental health programs, including children's mental health care, adult and older adult mental health care, prevention and early intervention programs, and innovative programs.

This bill would clarify that MHSA funds may be used to provide services to individuals under a CARE agreement or a CARE plan.

(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 also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plans and insurers to provide coverage for medically necessary treatment of mental health and substance use disorders. Violation of the Knox-Keene Act by a health care service plan is a crime.

This bill would require health care service plans and insurers to cover the cost of developing an evaluation for CARE services and the provision of all health care services for an enrollee or insured when required or recommended for the person pursuant to a CARE plan, as specified, without cost sharing, except for prescription ~~drugs.~~ *drugs, and regardless of whether the services are provided by an in-network or out-of-network provider.* Because a violation of this requirement by a health care service plan would be a 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 a misdemeanor defendant who has been determined to be incompetent to stand trial, would authorize the court to refer the defendant to the CARE program.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(5) 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 Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### SECTION 1. The Legislature finds and declares all of the following:

(a) Thousands of Californians are suffering from untreated schizophrenia spectrum and psychotic disorders, leading to risks to their health and safety and increased homelessness, incarceration, hospitalization, conservatorship, and premature death. These individuals, families, and communities deserve a path to care and wellness.

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

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

*(d) California has made unprecedented investments in behavioral health, housing, and combating homelessness, and CARE Court helps those with the greatest needs access these resources and services. CARE Court provides a framework to ensure counties and other local governments focus their efforts to provide comprehensive treatment, housing, and supportive services to Californians with complex behavioral health care needs so they can stabilize and find a path to wellness and recovery.*

~~(d)~~

*(e) Self-determination and civil liberties are important California values that can be advanced and protected for individuals with these untreated severe mental illnesses with the ~~establishment of a new CARE Supporter role, in addition to legal counsel~~, provision of legal counsel for CARE ~~proceedings~~. proceedings, agreements, and plans, as well as the promotion of supported decisionmaking.*

~~(e)~~

*(f) California continues to act with urgency to expand behavioral health services and to increase housing choices and end homelessness for all Californians. CARE provides a vital solution to ensure access to comprehensive services and supports for some of the most ill and most vulnerable Californians.*

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

**1374.723.** (a) A health care service plan contract issued, amended, renewed, or delivered on or after July 1, 2023, that covers hospital, medical, or surgical expenses shall cover the cost of developing an evaluation pursuant to Section

5977 of the Welfare and Institutions Code and the provision of all health care services for an enrollee when required or recommended for the enrollee pursuant to a CARE agreement or a CARE plan approved by a court in accordance with the court's authority under Sections 5977 and 5982 of the Welfare and Institutions ~~Code~~. *Code, regardless of whether the service is provided by an in-network or out-of-network provider.*

(b) (1) A health care service plan shall not require prior authorization for ~~services~~ *services, other than prescription drugs*, provided pursuant to a CARE agreement or CARE plan approved by a court pursuant to Part 8 (commencing with Section 5970) of Division 5 of the Welfare and Institutions Code.

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

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

(c) (1) A health care service plan shall provide for reimbursement of services provided to an enrollee pursuant to this section, other than prescription drugs, at the greater of either of the following amounts:

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

(B) The fee-for-service or case reimbursement rate paid in the Medi-Cal program for the same or similar services as identified by the State Department of Health Care Services.

(2) A health care service plan shall provide for reimbursement of prescription drugs provided to an enrollee pursuant to this section at the health care service plan's contracted rate.

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

(d) Services provided to an enrollee pursuant to a CARE agreement or CARE plan, excluding prescription drugs, shall not be subject to copayment, coinsurance, deductible, or any other form of cost sharing. An individual or entity shall not bill the enrollee or subscriber, nor seek reimbursement from the enrollee or subscriber, for services provided pursuant to a CARE agreement or CARE ~~plan~~. *plan, regardless of whether the service is delivered by an in-network or out-of-network provider.*

(e) No later than July 1, 2023, the department may issue guidance to health care service plans regarding compliance with this section. This guidance shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Guidance issued pursuant to this subdivision shall be effective only until the department adopts regulations pursuant to the Administrative Procedure Act.

*(f) This section does not excuse a health care service plan from complying with Section 1374.72.*

~~(f)~~

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

~~(g)~~

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

**SEC. 3.** Section 10144.54 is added to the Insurance Code, to read:

**10144.54.** (a) An insurance policy issued, amended, renewed, or delivered on or after July 1, 2023, shall cover the cost of developing an evaluation pursuant to Section 5977 of the Welfare and Institutions Code and the provision of all health care services for an insured when required or recommended for the insured pursuant to a CARE agreement or CARE plan approved by a court in accordance with the court's authority under Sections 5977 and 5982 of the Welfare and Institutions ~~Code~~. *Code, regardless of whether the service is delivered by an in-network or out-of-network provider.*

(b) (1) An insurer shall not require prior authorization for services, other than prescription drugs, provided pursuant to a CARE agreement or CARE plan approved by a court pursuant to Part 8 (commencing with Section 5970) of Division 5 of the Welfare and Institutions Code.

(2) An insurer may conduct a postclaim review to determine appropriate payment of a claim. Payment for services subject to this section may be denied only if the insurer reasonably determines the insured was not insured at the time the services were rendered, the services were never performed, or the services were not provided by a health care provider appropriately licensed or authorized to provide the services.

(3) Notwithstanding paragraph (1), an insurer may require prior authorization for services as permitted by the department pursuant to subdivision (e).

(c) (1) An insurer shall provide for reimbursement of services provided to an insured pursuant to this section, other than prescription drugs, at the greater of either of the following amounts:

(A) The insurer's contracted rate with the provider.

(B) The fee-for-service or case reimbursement rate paid in the Medi-Cal program for the same or similar services as identified by the State Department of Health Care Services.

(2) An insurer shall provide for reimbursement of prescription drugs provided to an insured pursuant to this section at the insurer's contracted rate.

(3) An insurer shall provide reimbursement for services provided pursuant to this section in compliance with the requirements for timely payment of claims, as required by this chapter.

(d) Services provided to an insured pursuant to a CARE agreement or CARE plan, excluding prescription drugs, shall not be subject to copayment, coinsurance, deductible, or any other form of cost sharing. An individual or entity shall not bill the insured, nor seek reimbursement from the insured, for services provided pursuant to a CARE agreement or CARE ~~plan~~ *plan, regardless of whether the service is delivered by an in-network or out-of-network provider.*

(e) No later than July 1, 2023, the department may issue guidance to insurers regarding compliance with this section. This guidance shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Guidance issued pursuant to this subdivision shall be effective only until the department adopts regulations pursuant to the Administrative Procedure Act.

*(f) This section does not excuse an insurer from complying with Section 10144.5.*

**SEC. 4.** Section 1370.01 of the Penal Code is amended to read:

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

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

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

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

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

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

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

(ii) Refer the defendant to assisted outpatient treatment pursuant to Section 5346 of the Welfare and Institutions Code. A referral to assisted outpatient treatment may only occur in a county where services are available pursuant to Section 5348 of the Welfare and Institutions Code, and the agency agrees to accept responsibility for treatment of the defendant. A hearing to determine eligibility for assisted outpatient treatment shall be held within 45 days after the date of the referral. If the hearing is delayed beyond 45 days, the court shall order the defendant, if confined in county jail, to be released on their own recognizance pending that hearing. If the defendant is accepted into assisted outpatient treatment, the charges shall be dismissed pursuant to Section 1385.

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

(iv) Refer the defendant to the CARE program pursuant to Section 5978 of the Welfare and Institutions Code. A hearing to determine eligibility for CARE shall be held within 14 days after the date of the referral. If the hearing is delayed beyond 14 days, the court shall order the defendant, if confined in county jail, to be released on their own recognizance pending that hearing. If the defendant is accepted into CARE, the charges shall be dismissed pursuant to Section 1385.

(2) Dismiss the charges pursuant to Section 1385. If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the county behavioral health director or the director's designee.

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

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

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

**SEC. 5.** Section 5801 of the Welfare and Institutions Code is amended to read:

**5801.** (a) A system of care for adults and older adults with severe mental illness results in the highest benefit to the client, family, and community while ensuring that the public sector meets its legal responsibility and fiscal liability at the lowest possible cost.

(b) The underlying philosophy for these systems of care includes the following:

(1) Mental health care is a basic human service.

(2) Seriously mentally disordered adults and older adults are citizens of a community with all the rights, privileges, opportunities, and responsibilities accorded other citizens.

(3) Seriously mentally disordered adults and older adults usually have multiple disorders and disabling conditions and should have the highest priority among adults for mental health services.

(4) Seriously mentally disordered adults and older adults should have an interagency network of services with multiple points of access and be assigned a single person or team to be responsible for all treatment, case management, and community support services.

(5) The client should be fully informed and volunteer for all treatment provided, unless danger to self or others or grave disability requires temporary involuntary treatment, or the client is under a court order for assisted outpatient treatment pursuant to Section 5346 and, prior to the filing of the petition for assisted outpatient treatment pursuant to Section 5346, the client has been offered an opportunity to participate in treatment on a voluntary basis and has failed to engage in that treatment, or the client is under a court order for CARE pursuant to Part 8 (commencing with Section 5970) and, prior to the court-ordered CARE plan, the client has been offered an opportunity to enter into a CARE agreement on a voluntary basis and has declined to do so.

(6) Clients and families should directly participate in making decisions about services and resource allocations that affect their lives.

(7) People in local communities are the most knowledgeable regarding their particular environments, issues, service gaps and strengths, and opportunities.

(8) Mental health services should be responsive to the unique characteristics of people with mental disorders including age, gender, minority and ethnic status, and the effect of multiple disorders.

(9) For the majority of seriously mentally disordered adults and older adults, treatment is best provided in the client's natural setting in the community. Treatment, case management, and community support services should be designed to prevent inappropriate removal from the natural environment to more restrictive and costly placements.

(10) Mental health systems of care shall have measurable goals and be fully accountable by providing measures of client outcomes and cost of services.

(11) State and county government agencies each have responsibilities and fiscal liabilities for seriously mentally disordered adults and seniors.

**SEC. 6.** Section 5813.5 of the Welfare and Institutions Code is amended to read:

**5813.5.** Subject to the availability of funds from the Mental Health Services Fund, the state shall distribute funds for the provision of services under Sections 5801, 5802, and 5806 to county mental health programs. Services shall be available to adults and seniors with severe illnesses who meet the eligibility criteria in subdivisions (b) and (c) of Section 5600.3. For purposes of this act, "seniors" means older adult persons identified in Part 3 (commencing with Section 5800) of this division.

(a) Funding shall be provided at sufficient levels to ensure that counties can provide each adult and senior served pursuant to this part with the medically necessary mental health services, medications, and supportive services set forth in the applicable treatment plan.

(b) The funding shall only cover the portions of those costs of services that cannot be paid for with other funds, including other mental health funds, public and private insurance, and other local, state, and federal funds.

(c) Each county mental health program's plan shall provide for services in accordance with the system of care for adults and seniors who meet the eligibility criteria in subdivisions (b) and (c) of Section 5600.3.

(d) Planning for services shall be consistent with the philosophy, principles, and practices of the Recovery Vision for mental health consumers:

(1) To promote concepts key to the recovery for individuals who have mental illness: hope, personal empowerment, respect, social connections, self-responsibility, and self-determination.

(2) To promote consumer-operated services as a way to support recovery.

(3) To reflect the cultural, ethnic, and racial diversity of mental health consumers.

(4) To plan for each consumer's individual needs.

(e) The plan for each county mental health program shall indicate, subject to the availability of funds as determined by Part 4.5 (commencing with Section 5890) of this division, and other funds available for mental health services, adults and seniors with a severe mental illness being served by this program are either receiving services from this program or have a mental illness that is not sufficiently severe to require the level of services required of this program.

(f) Each county plan and annual update pursuant to Section 5847 shall consider ways to provide services similar to those established pursuant to the Mentally Ill Offender Crime Reduction Grant Program. Funds shall not be used to pay for persons incarcerated in state prison. Funds may be used to provide services to persons who are participating in a presentencing or postsentencing diversion program or who are on parole, probation, postrelease community

supervision, or mandatory supervision. When included in county plans pursuant to Section 5847, funds may be used for the provision of mental health services under Sections 5347 and 5348 in counties that elect to participate in the Assisted Outpatient Treatment Demonstration Project Act of 2002 (Article 9 (commencing with Section 5345) of Chapter 2 of Part 1), and for the provision of services to clients pursuant to Part 8 (commencing with Section 5970).

(g) The department shall contract for services with county mental health programs pursuant to Section 5897. After November 2, 2004, the term "grants," as used in Sections 5814 and 5814.5, shall refer to those contracts.

**SEC. 7.** Part 8 (commencing with Section 5970) is added to Division 5 of the Welfare and Institutions Code, to read:

**PART 8. The Community Assistance, Recovery, and Empowerment Act**

**CHAPTER 1. General Provisions**

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

**5970.5.** ~~It is the intent of the Legislature that this part be implemented in a manner that ensures it is effective. This part shall be implemented as follows, with technical assistance and continuous quality improvement, pursuant to Section 5983:~~

*(a) A first cohort of counties, representing at least one-half of the population of the state, shall begin no later than July 1, 2023, with additional funding provided to support the earlier implementation date.*

*(b) A second cohort of counties, representing the remaining population of the state, shall begin no later than July 1, 2024.*

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

(a) "CARE agreement" means a voluntary settlement agreement entered into by the parties. A CARE agreement includes the same elements as a CARE plan to support the respondent in accessing *community-based* services and supports.

(b) "CARE plan" means an individualized, appropriate range of *community-based* services and ~~supports consisting of supports, as set forth in this part, which include clinically appropriate~~ behavioral health ~~care, care and~~ stabilization medications, housing, and ~~enumerated services; other supportive services, as appropriate,~~ pursuant to Section 5982.

~~(c) "CARE supporter" means an adult, designated pursuant to Chapter 4 (commencing with Section 5980), who assists the person who is the subject of the petition, which may include supporting the person to understand, make, communicate, implement, or act on their own life decisions during the CARE Act court process, including a CARE agreement, a CARE plan, and a graduation plan. A CARE supporter shall not act independently.~~

*(c) "Counsel" means the attorney representing the respondent, provided pursuant to Section 5980, or chosen by the respondent, in CARE proceedings and matters related to CARE agreements and CARE plans.*

(d) "County behavioral health agency" means the local director of mental health services described in Section 5607, the local behavioral health director, or both as applicable, or their designee.

(e) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Section 5977.

(f) "Graduation plan" means a voluntary agreement entered into by the parties at the end of the CARE program that includes a strategy to support a successful transition out of court jurisdiction and that may include a psychiatric advance directive. A graduation plan includes the same elements as a CARE plan to support the respondent in accessing community-based services and supports. The graduation plan shall not place additional requirements on the ~~counties~~ *local government entities* and is not enforceable by the court.

(g) "Indian health care provider" means a health care program operated by the Indian Health Service, an Indian tribe, a tribal organization, or urban Indian organization (I/T/U) as those terms are defined in Section 4 of the Indian Health Care Improvement Act (25 U.S.C. Sec. 1603).

(h) "Licensed behavioral health professional" means either of the following:

(1) A licensed mental health professional, as defined in subdivision (j) of Section 4096.

(2) A person who has been granted a waiver of licensure requirements by the State Department of Health Care Services pursuant to Section 5751.2.

(i) "Parties" means the respondent, the county behavioral health agency in the county where proceedings under this part are pending, and other parties added by the court pursuant to clause (ii) of subparagraph (B) of paragraph (3) of subdivision (d) of Section 5977.

(j) "Psychiatric advance directive" means a legal document, executed on a voluntary basis by a person who has the capacity to make medical decisions, that allows a person with mental illness to protect their autonomy and ability to self-direct care by documenting their preferences for treatment in advance of a mental health crisis.

(k) "Respondent" means the person who is subject to the petition for CARE Act court proceedings.

*(l) "Stabilization medications" means medications included in the CARE plan that primarily consist of antipsychotic medications, to reduce symptoms of hallucinations, delusions, and disorganized thinking. Stabilization medications may be administered as long-acting injections if clinically indicated. Stabilization medications shall not be forcibly administered.*

*(m) "Supporter" means an adult, designated pursuant to Chapter 4 (commencing with Section 5980), who assists the person who is the subject of the petition, which may include supporting the person to understand, make, communicate, implement, or act on their own life decisions during the CARE Act court process, including a CARE agreement, a CARE plan, and developing a graduation plan. A supporter shall not act independently.*

*(n) "Trauma-informed care" means practices that recognize and respond to the signs, symptoms, and risks of trauma to better support the health needs of patients who have experienced Adverse Childhood Experiences (ACEs) and toxic stress.*

## CHAPTER 2. Process

**5972.** An individual shall qualify for CARE proceedings only if all of the following criteria are met:

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

(b) The person is currently ~~suffering from~~ *experiencing* a severe mental illness, as defined in paragraph (2) of subdivision (b) of Section 5600.3 and has a diagnosis of schizophrenia spectrum or other psychotic disorder, as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders. *This section does not establish respondent eligibility based upon a psychotic disorder that is due to a medical condition or is not primarily psychiatric in nature, including, but not limited to, physical health conditions such as traumatic brain injury, autism, dementia, or neurologic conditions.* A person who has a current diagnosis of substance use disorder as defined in paragraph (2) of subdivision (a) of Section 1374.72 of the Health and Safety Code, but who does not meet the required criteria in this section shall not qualify for CARE proceedings.

(c) The person is not clinically stabilized in on-going voluntary treatment.

(d) At least one of the following is true:

(1) The person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating.

(2) The person is in need of 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.

(e) Participation in *the* CARE Act ~~services~~ would be the least restrictive alternative necessary to ensure the person's recovery and stability.

(f) It is likely that the person will benefit from ~~CARE Act services~~: *the CARE Act.*

**5973. (a)** Proceedings under this part may be commenced in any of the following:

~~(a)~~

*(1)* The county in which the respondent resides.

~~(b)~~

*(2)* The county where the respondent is found.

~~(c)~~

*(3)* The county where the respondent is facing criminal or civil proceedings.

*(b) If the respondent does not reside in the county in which proceedings are initiated under this subdivision, as determined in accordance with Section 244 of the Government Code, except as provided in subdivision (e) of Section 5982, and this part is operative in the respondent's county of residence, the proceeding shall, with the respondent's consent, be transferred to the county of residence as soon as reasonably feasible. Should the respondent not consent to the transfer, the proceedings shall continue in the county where the respondent was found.*

**5974.** The following persons may file a petition to initiate CARE proceedings:

- (a) A person 18 years of age or older with whom the respondent resides.
- (b) A spouse, parent, adult sibling, adult child, or grandparent or other adult who stands in loco parentis to the respondent.
- (c) The director of a hospital, or their designee, in which the respondent is hospitalized, including hospitalization pursuant to Section 5150 or 5250.
- (d) The director of a public or charitable organization, agency, or home, or their designee, who has, within the previous 30 days, provided or who is currently providing behavioral health services to the respondent or in whose institution the respondent resides.
- (e) A licensed behavioral health professional, or their designee, who is, or has been within the previous 30 days, either supervising the treatment of, or treating the respondent for a mental illness.
- (f) A first responder, including a peace officer, firefighter, paramedic, emergency medical technician, mobile crisis response worker, or homeless outreach worker, who has had repeated interactions with the respondent in the form of multiple arrests, multiple detentions and transportation pursuant to Section 5150, multiple attempts to engage the respondent in voluntary treatment, or other repeated efforts to aid the respondent in obtaining professional assistance.
- (g) The public guardian or public conservator, or their designee, of the county in which the respondent is present or reasonably believed to be present.
- (h) The director of a county behavioral health agency, or their designee, of the county in which the respondent ~~is present or reasonably believed to be present.~~ *resides or is found.*
- (i) The director of county adult protective services, or their designee, of the county in which the respondent ~~is present or is reasonably believed to be present.~~ *resides or is found.*
- (j) The director of a California Indian health services program, California tribal behavioral health department, or their designee.
- (k) The judge of a tribal court that is located in California, or their designee.
- (l) A prosecuting attorney, pursuant to subdivision (b) of Section 5978.
- (m) The respondent.

**5975.** The petition shall be signed under the penalty of perjury and contain all of the following:

- (a) The name of the respondent and, if known, the respondent's address.
- (b) The petitioner's relationship to the respondent.
- (c) Facts that support the petitioner's assertion that the respondent meets the CARE criteria in Section 5972.
- (d) Either of the following:
  - (1) An affidavit of a licensed behavioral health professional, stating that the licensed behavioral health professional or their designee has examined the respondent within 60 days of the submission of the petition, or has made multiple attempts to examine, but has not been successful in eliciting the cooperation of the respondent to submit to an examination, within 60 days of the petition, and that the licensed behavioral health professional had determined that the respondent meets, or has reason to believe, explained with specificity in the affidavit, that the respondent meets the diagnostic criteria for CARE proceedings.
  - (2) Evidence that the respondent was detained for a minimum of two intensive treatments pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Part 1, the most recent one within the previous 60 days.

**5975.1.** Notwithstanding Section 391 of the Code of Civil Procedure, if a person other than the respondent files a petition for CARE Act proceedings that is without merit or is intended to harass or annoy the respondent, and the person has previously filed ~~pleadings~~ *a pleading* in CARE Act proceedings that ~~were~~ *was* without merit or ~~were~~ *was* intended to harass or annoy the respondent, the petition shall be grounds for the court to determine that the person is a vexatious litigant for the purposes of Title 3A (commencing with Section 391) of Part 2 of the Code of Civil Procedure.

**5976.** The respondent shall:

- (a) Receive notice of the hearings.
- (b) Receive a copy of the court-ordered evaluation.
- (c) Be represented by counsel at all stages of a proceeding commenced under this chapter, regardless of the ability to pay.
- (d) Be ~~offered a CARE~~ *allowed to have a* supporter, as described in Section 5982.
- (e) Be present at the hearing unless the respondent waives the right to be present.
- (f) Have the right to present evidence.
- (g) Have the right to call witnesses.
- (h) Have the right to cross-examine witnesses.
- (i) Have the right to appeal decisions, and to be informed of the right to appeal.

**5976.5.** (a) Notwithstanding any other law, and except as otherwise provided in this section, a hearing held under this part is presumptively closed to the public.

(b) The respondent may demand that the hearing be public and be held in a place suitable for attendance by the public.

(c) The respondent may request the presence of any family member or friend without waiving the right to keep the hearing closed to the rest of the public.

(d) A request by any other party to the proceeding to make the hearing public may be granted if the ~~judge, hearing officer, or other person~~ *judge* conducting the hearing finds that the public interest in an open hearing clearly outweighs the respondent's interest in privacy.

(e) Before commencing a hearing, the judge shall inform the respondent of their rights under this section.

**5977.** (a) (1) The court shall promptly review the petition to determine if the petition may contain the information required by Section 5975.

(2) If the court finds that the petition does not contain the information required by Section 5975, the court shall dismiss the case without prejudice subject to consideration of Section 5975.1.

(3) If, based upon the information in the petition, the court finds that the petition may contain the information required by Section 5975, the court shall order a county agency, or their designee, as determined by the presiding judge, to investigate, as necessary, and file a written report with the court within 21 days that includes a determination as to whether the respondent meets, or is likely to meet, the criteria for CARE proceedings and the outcome of efforts made to voluntarily engage the respondent during the 21-day report period. The court shall provide notice to the respondent and petitioner that a report has been ordered.

(4) The county agency shall submit a written report to the court with the findings and conclusions of the investigation, along with any recommendations. If the county agency is making progress to engage the respondent, it may request up to an additional 30 days to continue to engage and enroll the individual in treatment and services.

(5) The court shall, within five days of receipt of the report, review the report and take one of the following actions:

(A) If the court determines that the respondent meets, or likely meets the criteria, and engagement is not effective, the court shall do all of the following:

- (i) Set an initial hearing within 14 days.

(ii) (I) Appoint counsel, unless the respondent has *retained* their own counsel.

*(II) If the respondent has not retained legal counsel and does not plan to retain legal counsel, whether or not the respondent lacks or appears to lack legal capacity, the court shall, before the time of the initial hearing, appoint a qualified legal services project, as defined in Sections 6213 to 6214.5, inclusive, of the Business and Professions Code or, if no legal services project has agreed to accept these appointments, a public defender to represent the respondent for all purposes related to this part, including appeals.*

*(III) Counsel appointed in this case shall have the authority to represent the individual in any proceeding under this part, and shall have the authority to represent the individual, as needed, in matters related to CARE agreements and CARE plans.*

(iii) ~~Appoint a CARE~~ Allow the respondent to select a supporter, unless the respondent chooses ~~their own CARE supporter or chooses~~ not to have a ~~CARE~~ supporter.

(iv) Provide notice of the hearing to the petitioner, the respondent, the appointed ~~counsel and CARE~~ *counsel*, the supporter, ~~and~~ the county behavioral health agency in the county where the respondent ~~resides~~ *resides*, ~~and, if different, the county where the CARE court proceedings have commenced.~~

(B) If the court determines that the respondent meets, or likely meets, the criteria, voluntary engagement is effective, and that the individual has enrolled in behavioral health treatment, the court shall dismiss the matter.

(C) If the court determines that the individual does not meet, or is likely not to meet, the criteria, the court shall dismiss the matter. This section shall not prevent county behavioral health from voluntarily engaging with individuals who do not meet CARE criteria but who are in need of services and supports.

(6) If the court dismisses the matter pursuant to subparagraph (B) or (C) of paragraph (5), the court shall notify the petitioner and the respondent of the dismissal and the reason for dismissal. The petitioner shall have the ability to request reconsideration of the dismissal within 10 days. Should the court grant reconsideration, the court may set an initial hearing as outlined in subparagraph (A) of paragraph (5).

(b) At the initial hearing, the court shall permit the respondent to substitute their own counsel for appointed ~~counsel and substitute their own CARE supporter for the appointed CARE supporter or elect to proceed without a CARE supporter~~ *counsel*.

(c) All of the following apply for the initial hearing:

(1) The petitioner shall be present. If the petitioner is not present, the matter may be dismissed.

(2) The respondent may waive their appearance and appear through their counsel. If the respondent does not waive their appearance and does not appear at the hearing, and appropriate attempts to elicit the attendance of the respondent have failed, the court may conduct the hearing in the respondent's absence. If the hearing is conducted without the respondent present, the court shall set forth the factual basis for doing so and the reasons the proceedings will be successful without the respondent's presence.

(3) A representative from the county behavioral health agency shall be present.

(4) The ~~CARE supporter shall~~ *supporter may* be present, subject to the consent of the respondent.

(5) If the respondent is enrolled in a federally recognized Indian tribe or is otherwise receiving services from an Indian health care provider, a tribal court, or a tribal organization, a representative from the program, the tribe, or the tribal court shall be allowed to be present, subject to the consent of the respondent.

(d) (1) At the initial hearing, the court shall determine if the petitioner has presented prima facie evidence that the respondent meets the CARE criteria. In making this determination, the court shall consider all evidence properly before it, including the report from the county required pursuant to paragraph (3) of subdivision (a) and any additional evidence presented by the parties.

(2) If the court finds there is no reason to believe that the facts stated in the petition are true, the court shall dismiss the case without prejudice, unless the court makes a finding, on the record, that the petitioner's filing was not in good faith. Any new petition shall be based on changed circumstances that warrant a new petition.

(3) If the court finds that there is reason to believe that the facts stated in the petition appear to be true, the court shall order 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 shall set a case management hearing within 14 days.

(4) If the respondent is enrolled in a federally recognized Indian tribe, the court shall provide notice of the case management hearing to the tribe, subject to the consent of the respondent.

**5977.1.** (a) (1) At the case management hearing, the court shall determine whether the parties may enter into a CARE agreement.

(2) The court's findings that the parties may enter into a CARE agreement shall require a recitation of all terms and conditions on the record.

(3) If the court finds that the parties have agreed to a CARE agreement, and the court agrees with the terms of the CARE agreement, the court shall stay the matter and set a progress hearing for 60 days.

(b) (1) If the court finds that the parties have not reached, and are not likely to reach, a CARE agreement, the court shall order a clinical evaluation of the respondent. The evaluation shall address the clinical diagnosis and shall address the issue of whether the defendant has capacity to give informed consent regarding psychotropic medication.

(2) The court shall order the county behavioral health agency, through a licensed behavioral health professional, to conduct the evaluation unless there is an existing clinical evaluation of the respondent completed within the last 30 days and the parties stipulate to the use of that evaluation.

(c) (1) The court shall set a clinical evaluation hearing to review the evaluation within 14 days.

(2) At the clinical evaluation review hearing, the court shall review the evaluation and any other evidence from the petitioner, the county behavioral health agency, the respondent, ~~and, if requested by the respondent, the CARE and the~~ supporter. The petitioner and the respondent may present evidence and call witnesses, including the person who conducted the evaluation. Only relevant and admissible evidence that fully complies with the rules of evidence may be considered by the court.

(3) The clinical evaluation hearing may be continued for a maximum of 14 days upon stipulation of the respondent and the county behavioral health agency, unless there is good cause for a longer extension.

(4) (A) If the court finds by clear and convincing evidence, after review of the evaluation and other evidence, that the respondent meets the CARE criteria, the court shall order the county behavioral health agency, the respondent, and the respondent's counsel and ~~CARE~~ supporter to jointly develop a CARE plan.

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

(5) If the court finds, in reviewing the evaluation, that clear and convincing evidence does not support that the respondent meets the CARE criteria, the court shall dismiss the petition.

(6) The evaluation and all reports, documents, and filings submitted to the court shall be confidential.

(d) (1) The CARE plan shall be developed by the respondent, in consultation with their ~~CARE~~ supporter and counsel, and the county behavioral health agency.

(2) If the proposed CARE plan includes services and supports, such as housing, provided directly or indirectly through another local governmental entity, that local entity may agree to provide the service or support or the court may consider a motion by either of the parties to add the local entity as a party to the CARE proceeding.

(3) If the respondent is an American Indian or Alaska Native individual, as defined in Sections 1603(13), 1603(28), and 1679(a) of Title 25 of the United States Code, has been determined eligible as an Indian under Section 136.12 of Title 42 of the Code of Federal Regulations, or is otherwise receiving services from an Indian health care provider or tribal court, the county behavioral health agency shall use best efforts to meaningfully consult with and incorporate the Indian health care provider or tribal court available to the respondent to develop the CARE plan.

(4) The date for the hearing to review and consider approval of the proposed CARE plan shall be set not more than 14 days from the date of the order to develop a CARE plan, unless there is good cause for an extension.

(e) (1) The county behavioral health agency or the respondent, or both, may present a proposed CARE plan.

(2) After reviewing the proposed CARE plan and hearing from the parties, the court may issue any orders necessary to support the respondent in accessing appropriate services and supports, including prioritization for those services and supports, subject to applicable laws and available funding pursuant to Section 5982.

(3) A court may only order medication if it finds, upon review of the court-ordered evaluation and hearing from the parties that, by clear and convincing evidence, the respondent lacks the capacity to give informed consent to the

administration of medically necessary medication, including antipsychotic medication. To the extent the court orders medically necessary stabilization medication, the medication shall not be forcibly administered and the respondent's failure to comply with a medication order shall not result in a penalty, including, but not limited to, contempt or Section 5979.

(4) If the court determines that additional information is needed, including from a licensed behavioral health professional, the court shall order a supplemental report to be filed and the court may grant a continuance for no more than 14 days, unless there is good cause for an extension.

(5) If there is no CARE plan because the parties have not had sufficient time to complete it, the court may grant a continuance for no more than 14 days, unless there is good cause for an extension.

(f) The issuance of the order approving the CARE plan begins the up-to-one-year CARE program timeline.

**5977.2.** (a) (1) At intervals of not less than 60 days during the CARE plan implementation, the court shall have a status review hearing. The county behavioral health ~~worker~~ *agency* assigned to the respondent's case shall file with the court and serve on the respondent, and the respondent's counsel and ~~CARE~~ supporter, a report not less than seven days prior to the review hearing with the following information:

(A) Progress the respondent has made on the CARE plan.

(B) What services and supports in the CARE plan were provided, and what services and supports were not provided.

(C) Any issues the respondent expressed or exhibited in adhering to the CARE plan.

(D) Recommendations for changes to the services and supports to make the CARE plan more successful.

(2) Subject to applicable law, intermittent lapses or setbacks described in this section of the report shall not impact access to services, treatment, or housing.

(3) A status review hearing shall occur unless waived by all parties and approved by the court.

(b) The county behavioral health agency or the respondent may request, or the court upon its own motion may set, a hearing to occur at any time during the CARE Act proceedings to address a change of circumstances.

**5977.3.** (a) (1) In the 11th month of the program timeline, the court shall hold a one-year status hearing. At that hearing, the court shall determine whether to graduate the respondent from the program with a graduation plan or reappoint the respondent to the program for another term, not to exceed one year.

(2) The one-year status hearing shall be an evidentiary hearing. At least seven days prior to the one-year status hearing, the county behavioral health agency shall submit to the court and to the respondent, the respondent's counsel, and the respondent's ~~CARE~~ supporter, a report on the progress the respondent has made on the CARE plan, what services and supports in the CARE plan were provided, what services and supports were not provided, any issues the respondent had in adhering to the plan, and any recommendations for completion and graduation or continuation in CARE Act programming. The respondent shall have the right at the hearing to call witnesses and present evidence ~~information~~ as to whether or not the respondent agrees with the report.

(b) (1) If the respondent has successfully completed participation in the one-year CARE program, the respondent shall not be reappointed to the program. The court shall review with the parties the voluntary agreement for a graduation plan to support a successful transition out of court jurisdiction and may include a psychiatric advance directive. The graduation plan shall not place additional requirements on the ~~counties~~ *local government entities* and is not enforceable by the court.

(2) At the one-year status hearing, the respondent may request reappointment to the CARE ~~program.~~ *Act*. If the respondent elects to accept voluntary ~~reappointment to the program,~~ *reappointment*, the respondent may request any amount of time, up to and including one additional year, to be reappointed to the CARE ~~program.~~ *Act*. A respondent may only be reappointed ~~to the CARE program~~ once, for up to one additional year. The respondent may be voluntarily reappointed ~~to the program~~ if the court finds by clear and convincing evidence that ~~all~~ *both* of the following conditions apply:

(A) The respondent did not successfully complete the ~~program.~~ *CARE Act*.

(B) The respondent would benefit from continuation ~~of the CARE program.~~ *in the CARE Act*.

~~(C) The court finds, by clear and convincing evidence, that the respondent currently meets the requirements in Section 5972.~~

~~(3) If the court finds that the respondent has not successfully completed the program and that the respondent would benefit from continuation of the program, and the court cannot find, by clear and convincing evidence, that the respondent currently meets the requirements in Section 5972, but the respondent voluntarily requests to continue the program, the court may require that the county continue to provide the services and supports required in the CARE plan for another year.~~

(c) The respondent may be involuntarily reappointed to the program only if the court finds, by clear and convincing evidence, that all of the following conditions apply:

- (1) The respondent did not successfully complete the ~~program~~ *CARE Act*.
- (2) All services and supports required ~~by~~ *through* the ~~CARE plan~~ *Act proceedings* were provided to the respondent.
- (3) The respondent would benefit from continuation in the ~~CARE program~~ *Act*.
- (4) The respondent currently meets the requirements in Section 5972.*

(d) A respondent may only be reappointed to the ~~CARE program~~ *Act* once, for up to one additional year.

**5977.4.** (a) The judge shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the respondent. Except when there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversarial atmosphere with a view to obtaining the maximum cooperation of the respondent, all persons interested in the respondent's welfare, and all other parties, with any provisions that the court may make for the disposition and care of the respondent. All evaluations and reports, documents, and filings submitted to the court pursuant to CARE Act proceedings shall be confidential.

(b) The hearings described in this chapter shall occur in person unless the court, in its discretion, allows a party or witness to appear remotely through the use of remote technology. The respondent shall have the right to be in person for all hearings.

(c) Consistent with its constitutional rulemaking authority, the Judicial Council shall adopt rules to implement the policies and provisions in this section and in Sections 5977, 5977.1, 5977.2, and 5977.3 to promote statewide consistency, including, but not limited to, what is included in the petition form packet, the clerk's review of the petition, and the process by which counsel ~~and CARE supporter~~ will be appointed.

**5978.** (a) A court may refer an individual from assisted outpatient treatment and conservatorship proceedings to CARE proceedings. If the individual is being referred from assisted outpatient treatment, the county behavioral health director or their designee may be the petitioner. If the individual is being referred from conservatorship proceedings, the conservator may be the petitioner.

(b) 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.

### CHAPTER 3. Accountability

**5979.** (a) (1) If, at any time during the proceedings, the court determines by clear and convincing evidence that the respondent is not participating in CARE proceedings, after the respondent receives notice, or is not adhering to their CARE plan, after the respondent receives notice, the court may terminate the respondent's participation in the CARE program.

(2) To ensure the respondent's safety, the court may utilize existing legal authority pursuant to Article 2 (commencing with Section 5200) of Chapter 2 of Part 1. The court shall provide notice to the county behavioral health agency and the Office of the Public Conservator and Guardian if the court utilizes that authority.

(3) If the respondent was timely provided with all of the services and supports required by the CARE plan, the fact that the respondent failed to successfully complete their CARE plan, including reasons for that failure, shall be a fact considered by the court in a subsequent hearing under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)), provided that the hearing occurs within six months of the termination of the CARE plan and shall create a presumption at that hearing that the respondent needs additional intervention beyond the supports and services provided by the CARE plan.

(b) If, at any time during the proceedings, the court finds that the county or other local government entity is not complying with court orders, the court may fine the county or other local government entity up to one thousand dollars (\$1,000) per day for noncompliance. If a county or other local government entity is found to be persistently

noncompliant, the court may appoint a receiver to secure court-ordered care for the respondent at the county's cost. In determining the application of the remedies available, the court shall consider whether there are any mitigating circumstances impairing the ability of the county or other local government entity to fully comply with the requirements of this part. Funds collected pursuant to this subdivision shall be deposited in ~~a special fund and used to support county activities serving individuals with serious mental illness.~~ *the CARE Act Accountability Fund, which is hereby created in the State Treasury. 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.*

(c) Either the respondent or the county behavioral health agency may appeal an adverse court determination.

#### CHAPTER 4. ~~The CARE~~ Supporter *and Counsel*

**5980.** (a) Subject to appropriation, ~~the California Department of Aging shall administer the CARE Supporter program, which shall make available a trained CARE supporter to the respondent, who may accept, decline, or choose their own CARE supporter. The department shall train CARE supporters on supported decisionmaking with individuals who have behavioral health conditions, with support and input from peers, family members, disability groups, providers, the County Behavioral Health Directors Association, and other relevant stakeholders, and on the use of psychiatric advance directives. The department may enter into a technical assistance and training agreement to provide training directly to either CARE supporters or to the contracted entities who will be responsible for hiring and matching CARE supporters to respondents. The CARE Supporter program contracts shall include labor standards under state and federal law.~~ *the State Department of Health Care Services, with support and input from relevant stakeholders, shall provide optional training and technical resources for volunteer supporters on CARE Act proceedings, community services and supports, supported decisionmaking, and people with behavioral health conditions, trauma-informed care, and psychiatric advance directives. The department may enter into a technical assistance and training agreement for this purpose, pursuant to Section 5984.*

(b) The ~~CARE Supporter program shall be designed to~~ *supporter shall* do all of the following:

- (1) Offer the respondent a flexible and culturally responsive way to maintain autonomy and decisionmaking authority over their own life by developing and maintaining voluntary supports to assist them in understanding, making, communicating, and implementing their own informed choices.
- (2) Strengthen the respondent's capacity to engage in and exercise autonomous decisionmaking and prevent or remove the need to use more restrictive protective mechanisms, such as conservatorship.
- (3) Assist the respondent with understanding, making, and communicating decisions and expressing preferences throughout the CARE court process.

~~(c) If the respondent chooses to have a CARE supporter outside of the CARE Supporter program, that person may serve as a volunteer CARE supporter without compensation. Optional training shall be made available and strongly encouraged for volunteer CARE supporters.~~

**5981.** (a) Notwithstanding any other provision of this part, the respondent may have ~~their CARE~~ *a* supporter present in any meeting, judicial proceeding, status hearing, or communication related to any of the following:

- (1) An evaluation.
- (2) Development of a CARE agreement or CARE plan.
- (3) Establishing a psychiatric advance directive.
- (4) Development of a graduation plan.

(b) ~~A CARE supporter shall~~ *supporter is intended to* do all the following:

- (1) Support the will and preferences of the respondent to the best of their ability and to the extent reasonably possible.
- (2) Respect the values, beliefs, and preferences of the respondent.
- (3) Act honestly, diligently, and in good faith.
- (4) Avoid, to the greatest extent possible, and disclose to the court, the respondent, and the respondent's counsel, minimize, and manage, conflicts of interest. A court may remove a ~~CARE~~ supporter because of any conflict of

interest with the respondent, and shall remove the ~~CARE~~ supporter if the conflict cannot be managed in such a way to avoid any possible harm to the respondent.

(c) Unless explicitly authorized by the respondent with capacity to make that authorization, a ~~CARE~~ supporter shall not do either of the following:

(1) Make decisions for, or on behalf of, the respondent, except when necessary to prevent imminent bodily harm or injury.

(2) Sign documents on behalf of the respondent.

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

(e) The ~~CARE~~ supporter shall not be subpoenaed or called to testify against the respondent in any proceeding relating to this part, and the supporter's presence at any meeting, proceeding, or communication shall not waive confidentiality or any privilege.

*5981.5. Subject to appropriation for this purpose, the Judicial Council shall provide funding to qualified legal services projects, as defined in Sections 6213 to 6214.5, inclusive, of the Business and Professions Code, to be used to provide legal counsel appointed pursuant to subdivision (c) of Section 5976, for representation in CARE proceedings, matters related to CARE agreements and CARE plans, and to qualified support centers, as defined in subdivision (b) of Section 6213 of, and Section 6215 of, the Business and Professions Code, for training, support, and coordination.*

## CHAPTER 5. CARE Plan

**5982.** (a) The CARE plan may only include the following:

(1) Behavioral health services funded through the 1991 and 2011 Realignment, Medi-Cal behavioral health, ~~non-Medi-Cal behavioral health, commercial plans,~~ *health care plans and insurers, services provided pursuant to Part 5 (commencing with Section 17000) of Division 9,* and services supported by the Mental Health Services Act pursuant to Part 3 (commencing with Section 5800).

(2) Medically necessary stabilization medications, to the extent not described in paragraph (1).

(3) Housing resources funded through the No Place Like Home Program (Part 3.9 (commencing with Section 5849.1) of Division 5 of the Welfare and Institutions Code); California Housing Accelerator (Chapter 6.6 (commencing with Section 50672) of Part 2 of Division 31 of the Health and Safety Code); the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code); the Homeless Housing, Assistance, and Prevention Program (Chapter 6 (commencing with Section 50216) of Part 1 of Division 31 of the Health and Safety Code); the Encampment Resolution Funding Program (Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code); the Project Roomkey and Rehousing Program pursuant to Provision 22 of Item 5180-151-0001 of the Budget Act of 2021 (Ch. 21, Stats. 2021); the Community Care Expansion Program (Chapter 20 (commencing with Section 18999.97) of Part 6 of Division 9 of the Welfare and Institutions Code); the CalWORKs Housing Support Program (Article 3.3 (commencing with Section 11330) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code); the CalWORKs Homeless Assistance pursuant to clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 11450 of Article 6 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code; the Housing and Disability Advocacy Program (Chapter 17 (commencing with Section 18999) of Part 6 of Division 9 of the Welfare and Institutions Code); the Home Safe Program (Chapter 14 (commencing with Section 15770) of Part 3 of Division 9 of the Welfare and Institutions Code); the Bringing Families Home Program (Article 6 (commencing with Section 16523) of Chapter 5 of Part 4 of Division 9 of the Welfare and Institutions Code); the Transitional Housing Placement program for nonminor dependents (Article 4 (commencing with Section 16522) of Chapter 5 of Part 4 of Division 9 of the Welfare and Institutions Code); the Transitional Housing Program-Plus pursuant to subdivision (s) of Section 11400 and paragraph (2) of subdivision (a) of Section 11403.2 of Article 5 of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code and Article 4 (commencing with Section 16522) of Chapter 5 of Part 4 of Division 9 of the Welfare and Institutions Code; the Behavioral Health Continuum Infrastructure Program (Chapter 1 (commencing with Section 5960) of Part 7 of Division 5 of the Welfare and Institutions Code); the Behavioral Health Bridge Housing Program; HUD-Veterans Affairs Supportive Housing Program (Section 8(o)(19) of the United States Housing Act of 1937 [42 U.S.C. Section 1437f(o)(19)]); Supportive Services for Veteran Families

(Section 604 of the Veterans' Mental Health and Other Care Improvements Act of 2008 [38 U.S.C. Sec. 2044]); HUD Continuum of Care program (Section 103 of the McKinney-Vento Homeless Assistance Act [42 U.S.C. Sec. 11302]); the Emergency Solutions Grant (Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. Secs. 11371-11378]); HUD Housing Choice Voucher program (Section 8 of the United States Housing Act of 1937 [42 U.S.C. Sec. 1437f]); the Emergency Housing Vouchers (Section 3202 of the American Rescue Plan Act of 2021 [Public Law 117-2]; Section 8(o) of the United States Housing Act of 1937 [42 U.S.C. Sec. 1437f(o)]); HOME Investment Partnerships Program (Title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. Sec. 12721 et seq.]); the Community Development Block Grant Program (Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. Sec. 5301 et seq.]); housing supported by the Mental Health Services Act pursuant to Part 3 (commencing with Section 5800); community development block grants; and other state and federal housing resources.

(4) Social services funded through Supplemental Security Income/State Supplementary Payment (SSI/SSP), Cash Assistance Program for Immigrants (CAPI), CalWORKs, California Food Assistance Program, In-Home Supportive Services program, and CalFresh.

(5) Services provided pursuant to Part 5 (commencing with Section 17000) of Division 9.

(b) Individuals who are CARE program participants shall be prioritized for any appropriate bridge housing funded by the Behavioral Health Bridge Housing program.

(c) All CARE plan services and supports ordered by the court are subject to all applicable federal and state statutes and regulations, contractual provisions, and policy guidance governing program eligibility and available ~~funding, including, but not limited to, the following:~~ *funding. In addition to the resources funded through programs listed in subdivision (a), the State Department of Health Care Services may identify other adjacent covered Medi-Cal services, including, but not limited to, enhanced care management and available community supports, which may be provided, although not ordered, by the court, subject to all applicable federal and state statutes, regulations, contractual provisions, and policy guidance.*

~~(1)Medically necessary behavioral health treatment and stabilization medications covered under the Medi-Cal program, including, but not limited to, treatment authorized pursuant to Article 3.2 (commencing with Section 14124.20) of Chapter 7 of Part 3 of Division 9 of, Section 14184.400 of, or Chapter 8.9 (commencing with Section 14700) of Part 3 of Division 9 of, this code or Section 11758.20 of the Health and Safety Code:~~

~~(2)Housing resources funded through the programs listed in paragraph (3) of subdivision (a):~~

~~(3)SSI/SSP, CAPI, CalWORKs, and CalFresh:~~

~~(4)Other adjacent covered Medi-Cal services identified by the State Department of Health Care Services, including, but not limited to, enhanced care management and available community supports:~~

(d) This section does not prevent a county or other local government entity from recommending their own services that are their own responsibility not listed in subdivision (a) or (c). Any such recommendation is not required by this section and shall be made at the request of the county for the purposes of Section 6 of Article XIII B, and Sections 6 and 36 of Article XIII of the California Constitution.

(e) (1) For respondents who are Medi-Cal beneficiaries, the county in which the respondent resides is the county of responsibility as defined in Section 1810.228 of Title 9 of the California Code of Regulations.

(2) If a proceeding commences in a county where the respondent is found or is facing criminal or civil proceedings that is different than the county in which the respondent resides, the county in which the respondent is found or is facing criminal or civil proceedings shall not delay proceedings under this part and is the responsible county behavioral health agency for providing or coordinating all components of the CARE agreement or CARE plan.

(3) The county in which the respondent resides, as defined in paragraph (1), shall be responsible for the costs of providing all CARE agreement or CARE plan behavioral health services, as defined in paragraph (1) of subdivision (a).

(4) In the event of a dispute over responsibility for any costs of providing components of the CARE agreement or CARE plan, the impacted counties shall resolve the dispute in accordance with the arbitration process established in Section 1850.405 of Title 9 of the California Code of Regulations for county mental health plans, including for respondents who are not Medi-Cal beneficiaries, and pursuant to any related guidance issued pursuant to subdivision (b) of Section 5984.

## CHAPTER 6. Technical Assistance and Administration

**5983.** (a) *Subject to appropriation for this purpose, the California Health and Human Services Agency, or a designated department within the agency, shall do both of the following:*

*(1) Engage an independent, research-based entity, as described in Section 5986, to advise on the development of data-driven process and outcome measures to guide the planning, collaboration, reporting, and evaluation of the CARE Act pursuant to this part.*

*(2) Provide coordination and on-going engagement with, and support collaboration among, relevant state and local partners and other stakeholders throughout the phases of county implementation to support the successful implementation of the CARE Act.*

(b) Subject to ~~appropriation~~, *appropriation for this purpose*, the State Department of Health Care Services shall provide *training and* technical assistance to county behavioral health agencies to support the implementation of this part, including training regarding the CARE statute, CARE plan services and supports, *supported decisionmaking, the supporter role, trauma-informed care, elimination of bias, psychiatric advance directives*, and data collection.

~~(b)~~

(c) Subject to appropriation, the Judicial Council, in consultation with the State Department of Health Care Services, other relevant state entities, and the County Behavioral Health Directors Association, shall provide training and technical assistance to judges to support the implementation of this part, including training regarding the CARE statutes, CARE plan services and supports, working with the ~~CARE~~ supporter, *supported decisionmaking, the supporter role, trauma-informed care, elimination of bias*, best practices, and evidence-based models of care for people with severe behavioral health conditions.

~~(c)~~

(d) Subject to appropriation, the State Department of Health Care Services, in consultation with other relevant state departments and the California Interagency Council on Homelessness, shall provide training to counsel regarding the CARE statute and CARE plan services and supports.

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

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the California Health and Human Services ~~Agency~~, *Agency and* the State Department of Health Care ~~Services, and the California Department of Aging~~ *Services* may implement, interpret, or make specific this part, in whole or in part, by means of plan letters, information notices, provider bulletins, or other similar instructions, without taking any further regulatory action.

**5985.** (a) The State Department of Health Care Services shall develop, in consultation with county behavioral health agencies, ~~CARE supporters, other relevant state or local government entities~~, disability rights groups, individuals with lived experience, *families, counsel*, and other appropriate stakeholders, an annual CARE Act report. The department shall post the annual report on its internet website.

(b) County behavioral health agencies and any other state or local governmental entity, as ~~determined~~ *identified* by the department, shall provide data related to the CARE Act participants, services, and supports to the department. The department shall determine the data measures and specifications, ~~and notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this part, in whole or in part, by means of plan letters, information notices, provider bulletins, or other similar instructions, without taking any further regulatory action: and shall publish them via guidance issues pursuant to subdivision (b) of Section 5984.~~

(c) Each county behavioral health department and any other *state and* local governmental entity, as ~~determined~~ *identified* by the department, shall provide the required data to the department, in a format and frequency as directed by the department.

(d) The department shall provide information on the populations served and demographic data, stratified by age, sex, race, ethnicity, languages spoken, disability, *sexual orientation, gender identity*, and county, to the extent statistically relevant data is available.

(e) The report shall include, at a minimum, information on the effectiveness of the CARE Act model in improving outcomes and reducing homelessness, criminal justice involvement, conservatorships, and hospitalization of participants. *The annual report shall include process measures to examine the scope of impact and monitor the performance of CARE Act model implementation, such as the number and source of petitions filed for CARE Court; the number, rates, and trends of petitions resulting in dismissal and hearings; the number, rates, and trends of supporters; the number, rates, and trends of voluntary CARE agreements; the number, rates, and trends of ordered and completed CARE plans; the services and supports included in CARE plans, including court orders for stabilizing medications; the rates of adherence to medication; the number, rates, and trends of psychiatric advance directives; and the number, rates, and trends of developed graduation plans. The report shall include outcome measures to assess the effectiveness of the CARE Act model, such as improvement in housing status, including gaining and maintaining housing; reductions in emergency department visits and inpatient hospitalizations; reductions in law enforcement encounters and incarceration; reductions in involuntary treatment and conservatorship; and reductions in substance use. The annual report shall examine these data through the lens of health equity to identify racial, ethnic, and other demographic disparities and inform disparity reduction efforts.*

(f) The outcomes shall be presented to relevant state oversight bodies, including, but not limited to, the California Interagency Council on Homelessness.

**5986.** (a) ~~The~~ *An independent, research-based entity shall be retained by the* State Department of Health Care Services ~~shall~~ *to* develop, in consultation with county behavioral health agencies, county CARE courts, and other appropriate stakeholders, an independent evaluation of the effectiveness of the CARE Act. *The independent evaluation shall employ statistical research methodology and include a logic model, hypotheses, comparative or quasi-experimental analyses, and conclusions regarding the extent to which the CARE Act model is associated, correlated, and causally related with the performance of the outcome measures included in the annual reports. 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.*

(b) The department shall provide a preliminary report to the Legislature three years after the implementation date of the CARE Act and a final report to the Legislature five years after the implementation date of CARE Act. The department shall post the preliminary and final reports on its internet website.

(c) Each county behavioral health department, each county CARE court, and any other state or local governmental entity, as determined by the department, shall provide the required data to the department, in a format and frequency as directed by the department.

(d) A report to be submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

**SEC. 8.** The Legislature finds and declares that Section 7 of this act, which adds Sections 5973.5, 5977.1 and 5977.4 to the Welfare and Institutions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

This act protects the sensitive medical information of the respondent in a CARE court proceeding, including medical and psychological records.

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

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