

AMENDED IN ASSEMBLY APRIL 7, 2022
AMENDED IN ASSEMBLY MARCH 24, 2022
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2830

Introduced by Assembly Member Bloom

February 18, 2022

An act to add ~~Article 10 (commencing with Section 5349.300) to Chapter 2 of Part 1 of Section 1374.723 to the Health and Safety Code, to amend Section 1370.01 of the Penal Code, and to add Part 8 (commencing with Section 5970) to Division 5 of the Welfare and Institutions Code, relating to mental health.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2830, as amended, Bloom. The 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 people to petition a civil court to create a CARE plan and implement services, to be provided by county behavioral health agencies, to provide behavioral health care, stabilization medication, and housing support to adults who are suffering from schizophrenia spectrum and psychotic disorders

and who lack medical decisionmaking capacity. The bill would specify the process by which the petition is filed and reviewed, including requiring the petition to be signed under penalty of perjury, and to contain specified information, including the acts that support the petitioner's belief that the respondent meets the CARE criterion. The bill would also specify the schedule of review hearings required if the respondent is ordered to comply with a one-year CARE plan by the court. The bill would authorize the CARE plan to be extended for up to one year and prescribes the requirement for the graduation plan that is required upon leaving the CARE program. By expanding the crime of perjury and imposing additional duties on the county behavioral health agencies, this bill would impose a state-mandated local program.

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

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

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

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

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

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

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

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

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

~~Existing law, the Lanterman-Petris-Short Act, provides generally for the involuntary detention, evaluation, treatment, and civil commitment of persons with mental health disorders and other specified persons for the protection of the persons committed. Under the act, when a person, as a result of a mental health disorder, is a danger to others, or to themselves, or gravely disabled, the person may, upon probable cause, be taken into custody and placed in a facility designated by the county and approved by the State Department of Social Services for up to 72 hours for evaluation and treatment. Existing law requires a person admitted to a facility for 72-hour treatment and evaluation under the act to receive an evaluation as soon as possible after admission and to receive whatever treatment and care their condition requires for the period that the person is held.~~

~~This bill would state the intent of the Legislature to develop a framework for a Community Assistance, Recovery, and Empowerment (CARE) court to deliver mental health and substance use disorder services to the most severely impaired Californians. This bill would require the California Health and Human Services Agency to develop a plan, by July 1, 2023, that includes, among other things, a referral process for individuals with specified mental disorders who lack decisionmaking capacity and a process for a civil court to order a clinical evaluation for an individual referred to the CARE Court. This bill would also require the agency to convene and establish a stakeholder process in the development of the plan described above.~~

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

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

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

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

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

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

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

29 *(e) California continues to act with urgency to expand*
30 *behavioral health services and to increase housing choices and*
31 *end homelessness for all Californians. CARE provides a vital*
32 *solution for some of the most ill and most vulnerable Californians.*

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

35 *1374.723. (a) A health care service plan contract issued,*
36 *amended, renewed, or delivered on or after July 1, 2023, that*
37 *covers hospital, medical, or surgical expenses shall cover the cost*
38 *of developing an evaluation pursuant to Section 5977 of the*

1 *Welfare and Institutions Code and the provision of all health care*
2 *services for an enrollee when required or recommended for the*
3 *enrollee pursuant to a care plan approved by a court in accordance*
4 *with the court's authority under Sections 5977 and 5982 of the*
5 *Welfare and Institutions Code.*

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

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

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

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

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

24 *(B) The fee-for-service or case reimbursement rate paid in the*
25 *Medi-Cal program for the same or similar services, including*
26 *prescription drugs, as identified by the State Department of Health*
27 *Care Services.*

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

32 *(d) Services provided to an enrollee pursuant to a CARE plan*
33 *shall not be subject to copayment, coinsurance, deductible, or any*
34 *other form of cost sharing. An individual or entity shall not bill*
35 *the enrollee or subscriber, nor seek reimbursement from the*
36 *enrollee or subscriber, for services provided pursuant to a CARE*
37 *plan.*

38 *(e) No later than July 1, 2023, the director of the Department*
39 *of Managed Health Care may issue guidance to health care service*
40 *plans regarding compliance with this section. This guidance shall*

1 *not be subject to the Administrative Procedure Act (Chapter 3.5*
 2 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
 3 *2 of the Government Code). Guidance issued pursuant to this*
 4 *subdivision shall be effective only until the director adopts*
 5 *regulations pursuant to the Administrative Procedure Act.*

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

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

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

15 1370.01. (a) *If the defendant is found mentally competent, the*
 16 *criminal process shall resume, and the trial on the offense charged*
 17 *or hearing on the alleged violation shall proceed.*

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

21 (1) (A) *Conduct a hearing, pursuant to Chapter 2.8A*
 22 *(commencing with Section 1001.35) of Title 6, and, if the court*
 23 *deems the defendant eligible, grant diversion pursuant to Section*
 24 *1001.36 for a period not to exceed one year from the date the*
 25 *individual is accepted into diversion or the maximum term of*
 26 *imprisonment provided by law for the most serious offense charged*
 27 *in the misdemeanor complaint, whichever is shorter.*

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

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

37 (D) *If the court finds the defendant ineligible for diversion based*
 38 *on the circumstances set forth in subdivision (b) or (d) of Section*
 39 *1001.36, the court may, after notice to the defendant, defense*

1 counsel, and the prosecution, hold a hearing to determine whether
2 to do any of the following:

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

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

17 (iii) Refer the defendant to the county conservatorship
18 investigator in the county of commitment for possible
19 conservatorship proceedings for the defendant pursuant to Chapter
20 3 (commencing with Section 5350) of Part 1 of Division 5 of the
21 Welfare and Institutions Code. A defendant shall only be referred
22 to the conservatorship investigator if, based on the opinion of a
23 qualified mental health expert, the defendant appears to be gravely
24 disabled, as defined in subparagraph (A) of paragraph (1) of
25 subdivision (h) of Section 5008 of the Welfare and Institution
26 Code. Any hearings required in the conservatorship proceedings
27 shall be held in the superior court in the county of commitment.
28 The court shall transmit a copy of the order directing initiation of
29 conservatorship proceedings to the county mental health director
30 or the director's designee and shall notify the county mental health
31 director or their designee of the outcome of the proceedings. Before
32 establishing a conservatorship, the public guardian shall investigate
33 all available alternatives to conservatorship pursuant to Section
34 5354 of the Welfare and Institutions Code. If a petition is not filed
35 within 60 days of the referral, the court shall order the defendant,
36 if confined in county jail, to be released on their own recognizance
37 pending conservatorship proceedings. If the outcome of the
38 conservatorship proceedings results in the establishment of
39 conservatorship, the charges shall be dismissed pursuant to Section
40 1385.

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

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

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

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

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

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

31
 32 **PART 8. THE COMMUNITY ASSISTANCE, RECOVERY, AND**
 33 **EMPOWERMENT ACT**

34
 35 **CHAPTER 1. GENERAL PROVISIONS**

36
 37 5970. This part shall be known, and may be cited, as
 38 *Community Assistance, Recovery, and Empowerment (CARE) Act*.

39 5971. Unless the context otherwise requires, the following
 40 definitions shall govern the construction of this part.

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

3 (b) “CARE plan” means an individualized, clinically
4 appropriate range of behavioral health-related services and
5 supports provided by a county behavioral health agency, including,
6 but not limited to, clinical care, stabilization medications, and a
7 housing plan, pursuant to Section 5982.

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

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

22 (e) “Respondent” means the person who is subject to the petition
23 for CARE court proceedings.

24 (f) “Supporter” means an adult, trained pursuant to Chapter
25 4 (commencing with Section 5980), who assists the person who is
26 the subject of the petition, which may include supporting the person
27 to understand, make, communicate, implement, or act on their own
28 life decisions.

29
30 *CHAPTER 2. PROCESS*

31
32 5972. A court may order a respondent to participate in CARE
33 proceedings if the court finds, by clear and convincing evidence,
34 that the facts stated in the petition are true and establish that the
35 requisite criteria set forth in this section are met, including all of
36 the following:

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

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

- 1 (c) *The person is not clinically stabilized in on-going treatment*
- 2 *with the county behavioral health agency.*
- 3 (d) *The person currently lacks medical decisionmaking capacity.*
- 4 5973. *Proceedings under this part may be commenced in any*
- 5 *of the following:*
- 6 (a) *The county in which the respondent resides.*
- 7 (b) *The county where the respondent is found.*
- 8 (c) *The county where the respondent is facing criminal or civil*
- 9 *proceedings.*
- 10 5974. *The following persons may file a petition to initiate CARE*
- 11 *proceedings:*
- 12 (a) *A person 18 years of age or older with whom the respondent*
- 13 *resides.*
- 14 (b) *A spouse, parent, sibling, or adult child of the respondent.*
- 15 (c) *The director of a hospital, or their designee, in which the*
- 16 *respondent is hospitalized, including hospitalization pursuant to*
- 17 *Section 5150 or 5250.*
- 18 (d) *The director of a public or charitable organization, agency,*
- 19 *or home, or their designee, currently or previously providing*
- 20 *behavioral health services to the respondent or in whose institution*
- 21 *the respondent resides.*
- 22 (e) *A qualified behavioral health professional, or their designee,*
- 23 *who is, or has been, either supervising the treatment of, or treating*
- 24 *the respondent for a mental illness.*
- 25 (f) *A first responder, including a peace officer, firefighter,*
- 26 *paramedic, emergency medical technician, mobile crisis response*
- 27 *worker, or homeless outreach worker.*
- 28 (g) *The public guardian or public conservator, or their designee,*
- 29 *of the county in which the respondent is present or reasonably*
- 30 *believed to be present.*
- 31 (h) *The director of a county behavioral health agency, or their*
- 32 *designee, of the county in which the respondent is present or*
- 33 *reasonably believed to be present.*
- 34 5975. *The petition shall be signed under the penalty of perjury*
- 35 *and contain all of the following:*
- 36 (a) *The name of the court to which it is addressed.*
- 37 (b) *The title of the proceeding.*
- 38 (c) *The name, age, and address, if any, of the respondent.*
- 39 (d) *The code section and the subdivision under which the*
- 40 *proceedings are instituted.*

- 1 (e) *The petitioner's relationship with the respondent.*
- 2 (f) *Facts that support the petitioner's belief that the respondent*
- 3 *meets the CARE criterion, including identification of the county*
- 4 *behavioral health agency with responsibility for providing care*
- 5 *to the respondent, if known.*
- 6 (g) *Either of the following:*
- 7 (1) *An affirmation or affidavit of a qualified behavioral health*
- 8 *professional, stating that the qualified behavioral health*
- 9 *professional or their designee has examined the respondent within*
- 10 *three months of the submission of the petition, or has made*
- 11 *appropriate attempts, but has not been successful, in eliciting the*
- 12 *cooperation of the respondent to submit to an examination, and*
- 13 *that the qualified behavioral health professional had determined*
- 14 *that, based on an examination or a review of records and collateral*
- 15 *interviews, the respondent meets, or is likely to meet, the diagnostic*
- 16 *criteria for CARE proceedings.*
- 17 (2) *Evidence that the respondent was detained for intensive*
- 18 *treatment pursuant to Article 4 (commencing with Section 5250)*
- 19 *of Chapter 2 of Part 1 within the previous 90 days.*
- 20 5976. *The respondent shall have all of the following rights:*
- 21 (a) *To receive notice of the hearings.*
- 22 (b) *To receive a copy of the court-ordered evaluation.*
- 23 (c) *To be represented by counsel at all stages of a proceeding*
- 24 *commenced under this chapter.*
- 25 (d) *To a supporter, as described in Section 5982.*
- 26 (e) *To be present at the hearing unless the respondent waives*
- 27 *the right to be present or the court makes a finding described in*
- 28 *Section 5977 or appears remotely.*
- 29 (f) *To present evidence.*
- 30 (g) *To call witnesses.*
- 31 (h) *To cross-examine witnesses.*
- 32 (i) *To appeal decisions, and to be informed of the right to*
- 33 *appeal.*
- 34 5977. (a) (1) *Upon receipt by the court of a petition, the court*
- 35 *shall set an initial hearing not later than 14 days from the date*
- 36 *the petition is filed with the court.*
- 37 (2) *The court shall appoint counsel and a supporter within five*
- 38 *calendar days of filing.*
- 39 (3) *The petitioner shall be responsible for providing notice of*
- 40 *the hearing to the respondent, the respondent's counsel and*

1 supporter, and the county behavioral health agency in the county
2 where the respondent resides.

3 (b) (1) At the initial hearing, which shall occur 14 days after
4 the petition is filed with the court, the court shall determine if the
5 respondent meets the CARE criteria.

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

7 (A) The petitioner shall be present. If the petitioner is not
8 present, the matter shall be dismissed.

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

16 (C) A representative from the county behavioral health agency
17 shall be present.

18 (D) The supporter shall be allowed to be present.

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

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

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

32 (c) (1) At the case management conference hearing, the court
33 shall determine if a settlement agreement may be entered into by
34 the parties.

35 (2) The case management conference may be continued for up
36 to 14 days upon stipulation of the respondent and the county
37 behavioral health agency.

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

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

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

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

10 (C) *The court shall set a hearing to review the evaluation within*
11 *14 days.*

12 (D) *The evaluation shall be confidential pursuant to Section*
13 *5200.*

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

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

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

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

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

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

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

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

1 (A) Approve the plan as presented and make any orders
 2 necessary for the implementation of the plan.

3 (B) Order the plan modified to better meet the needs of the
 4 parties, approve the plan as modified, within the scope of the
 5 county behavioral health agency’s services, and make any orders
 6 necessary for the implementation of the plan.

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

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

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

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

18 (ii) Order the plan modified, within the scope of the county
 19 behavioral health agency’s services, to better meet the needs of
 20 the parties, approve the plan as modified, and make any orders
 21 necessary to implement the plan.

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

24 (f) The court shall schedule a status conference for 60 days after
 25 the approval of the CARE plan to review the progress of the CARE
 26 plan’s implementation.

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

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

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

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

1 (3) *If the respondent has successfully completed participation*
2 *in the one-year CARE program, the respondent shall not be*
3 *reappointed to the program.*

4 (4) *At the one-year status hearing, the respondent may request*
5 *graduation or reappointment to the CARE program. If the*
6 *respondent elects to accept voluntary reappointment to the*
7 *program, the respondent may request any amount of time, up to*
8 *and including one additional year, to be reappointed to the CARE*
9 *program.*

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

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

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

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

25 5978. (a) *A court may refer an individual from assisted*
26 *outpatient treatment and conservatorship proceedings to CARE*
27 *proceedings.*

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

30

31

CHAPTER 3. ACCOUNTABILITY

32

33 5979. (a) *If, at any time during the proceedings, the court*
34 *determines by a preponderance of evidence that the respondent is*
35 *not participating in CARE proceedings, after the respondent*
36 *receives notice, or is failing to comply with their CARE plan, the*
37 *court may terminate the respondent's participation in the CARE*
38 *program. The court may utilize existing legal authority pursuant*
39 *to Article 4 (commencing with Section 5200) of Chapter 2 of Part*
40 *1, to ensure the respondent's safety. The subsequent proceedings*

1 *may use the CARE proceedings as a factual presumption that no*
2 *suitable community alternatives are available to treat the*
3 *individual.*

4 *(b) If, at any time during the proceedings, the court finds that*
5 *the county is not complying with court orders, the court may fine*
6 *the county up to one thousand dollars (\$1,000) per day for*
7 *noncompliance. If a county is found to be persistently*
8 *noncompliant, the court may appoint a receiver to secure*
9 *court-ordered care for the respondent at the county's cost.*

10 *(c) Either the respondent or the county behavioral health agency*
11 *may appeal an adverse court determination to the appellate*
12 *division of the superior court.*

13

14

CHAPTER 4. THE SUPPORTER

15

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

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

31 *(1) Offer the respondent a flexible and culturally responsive*
32 *way to maintain autonomy and decisionmaking authority over*
33 *their own life by developing and maintaining voluntary supports*
34 *to assist them in understanding, making, communicating, and*
35 *implementing their own informed choices.*

36 *(2) Strengthen the respondent's capacity and prevent or remove*
37 *the need to use more restrictive protective mechanisms, such as*
38 *conservatorship.*

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

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

7 5981. (a) Notwithstanding any other provision of this part,
8 the respondent may have their supporter present, if available, in
9 any meeting, judicial proceeding, or communication related to
10 any of the following:

11 (1) An evaluation.

12 (2) Creation of a CARE plan.

13 (3) Establishing a psychiatric advance directive.

14 (4) Development of a graduation plan.

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

17 (1) Support the will and preferences of the respondent.

18 (2) Respect the values, beliefs, and preferences of the
19 respondent.

20 (3) Act honestly, diligently, and in good faith.

21 (4) Avoid, to the greatest extent possible, and disclose, minimize,
22 and manage, conflicts of interest.

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

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

27 (2) Sign documents on behalf of the respondent.

28 (3) Substitute their own judgment for the decision or preference
29 of the respondent.

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

CHAPTER 5. CARE PLAN

1
 2
 3 5982. *The CARE plan shall be created by the respondent, their*
 4 *supporter and counsel, and the county behavioral health agency.*
 5 *The plan shall include all of the following components:*
 6 (a) (1) *Behavioral health treatment, which includes medically*
 7 *necessary mental health or substance use disorder treatment, or*
 8 *both.*
 9 (2) *If the respondent is enrolled in the Medi-Cal program, the*
 10 *county shall provide all medically necessary specialty mental*
 11 *health and substance use disorder treatment services, as those*
 12 *services are defined in the Medi-Cal program and consistent with*
 13 *their responsibilities thereunder, to a respondent when included*
 14 *in their court ordered CARE plan. Specialty mental health services*
 15 *and substance use disorder treatment services may be included in*
 16 *the CARE plan if they are determined to be medically necessary*
 17 *by the clinical evaluation. If the respondent is an enrollee in a*
 18 *health care service plan, other than a Medi-Cal managed care*
 19 *plan, the services shall be provided and reimbursed pursuant to*
 20 *Section 1374.723 of the Health and Safety Code.*
 21 (3) *Counties are encouraged to employ medically necessary,*
 22 *evidence-based practices and promising practices supported with*
 23 *community-defined evidence, which may include assertive*
 24 *community treatment, peer support services, and psychoeducation.*
 25 (b) (1) *As part of the provision of behavioral health care, the*
 26 *care plan may include medically necessary stabilization*
 27 *medications, including antipsychotic medications. If medically*
 28 *necessary, medications may be provided as long-acting injections.*
 29 (2) *Court ordered stabilization medications shall not be forcibly*
 30 *administered, absent a separate order by the court pursuant to*
 31 *Sections 5332 to 5336, inclusive.*
 32 (3) *Medically necessary stabilization medications may be*
 33 *prescribed by the treating licensed behavioral health care provider*
 34 *and medication support services shall be offered. The respondent,*
 35 *in the development and on-going maintenance of the plan, shall*
 36 *work with their behavioral health care provider and their supporter*
 37 *to address medication concerns and make changes to the treatment*
 38 *plan.*
 39 (c) *A housing plan that describes the housing needs of the*
 40 *respondent and the housing resources that will be considered in*

1 support of an appropriate housing placement. The respondent
2 shall have diverse housing options, including, but not limited to,
3 housing in clinically enhanced interim or bridge housing, licensed
4 adult and senior care settings, and supportive housing. Counties
5 may offer appropriate housing placements in the region as early
6 as feasible in the engagement process. This section does not allow
7 the court to order housing or to require the county to provide
8 housing.

9

10 *CHAPTER 6. TECHNICAL ASSISTANCE AND ADMINISTRATION*

11

12 5983. (a) Subject to appropriation, the State Department of
13 Health Care Services shall provide technical assistance to county
14 behavioral health agencies to support the implementation of this
15 part, including trainings regarding the CARE model and statute
16 and data collection.

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

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

31 5984. (a) For purposes of implementing this part, the
32 California Health and Human Services Agency, the State
33 Department of Health Care Services, and the California
34 Department of Aging may enter into exclusive or nonexclusive
35 contracts, or amend existing contracts, on a bid or negotiated
36 basis. Contracts entered into or amended pursuant to this part
37 shall be exempt from Chapter 6 (commencing with Section 14825)
38 of Part 5.5 of Division 3 of Title 2 of the Government Code, Section
39 19130 of the Government Code, Part 2 (commencing with Section
40 10100) of Division 2 of the Public Contract Code, and the State

1 *Administrative Manual, and shall be exempt from the review or*
 2 *approval of any division of the Department of General Services.*
 3 *(b) Notwithstanding Chapter 3.5 (commencing with Section*
 4 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
 5 *the California Health and Human Services Agency, the State*
 6 *Department of Health Care Services, and the California*
 7 *Department of Aging may implement, interpret, or make specific*
 8 *this part, in whole or in part, by means of plan letters, information*
 9 *notices, provider bulletins, or other similar instructions, without*
 10 *taking any further regulatory action.*

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

20 *However, if the Commission on State Mandates determines that*
 21 *this act contains other costs mandated by the state, reimbursement*
 22 *to local agencies and school districts for those costs shall be made*
 23 *pursuant to Part 7 (commencing with Section 17500) of Division*
 24 *4 of Title 2 of the Government Code.*

25 ~~SECTION 1. Article 10 (commencing with Section 5349.300)~~
 26 ~~is added to Chapter 2 of Part 1 of Division 5 of the Welfare and~~
 27 ~~Institutions Code, to read:~~

28
 29 ~~Article 10. The Community Assistance, Recovery, and~~
 30 ~~Empowerment (CARE) Court Program~~

31
 32 ~~5349.300. It is the intent of the Legislature to develop a new~~
 33 ~~framework for a Community Assistance, Recovery, and~~
 34 ~~Empowerment (CARE) court to deliver mental health and~~
 35 ~~substance use disorder services to the most severely impaired~~
 36 ~~Californians who too often languish, suffering in homelessness or~~
 37 ~~incarceration, without the treatment they desperately need.~~

38 ~~5349.310. By July 1, 2023, the California Health and Human~~
 39 ~~Services Agency shall develop a plan that includes all of the~~
 40 ~~following components for the CARE Court program:~~

- 1 ~~(a) Referral process to the court for individuals with untreated~~
- 2 ~~schizophrenia spectrum or other psychotic disorders who lack~~
- 3 ~~medical decisionmaking capacity.~~
- 4 ~~(b) A process for the civil court to order a clinical evaluation~~
- 5 ~~of the individual referred to the CARE Court program.~~
- 6 ~~(c) The appointment by the court of a public defender and a~~
- 7 ~~person to act as a supporter on behalf of the individual.~~
- 8 ~~(d) The development of a care plan based on the clinical~~
- 9 ~~evaluation, which may include behavioral health treatment services,~~
- 10 ~~stabilization medication, and a housing plan.~~
- 11 ~~5349.320. The agency shall convene and establish a stakeholder~~
- 12 ~~process in the development of the plan.~~