

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2025-2026 Regular Session**

SB 27 (Umberg)  
Version: December 2, 2024  
Hearing Date: April 8, 2025  
Fiscal: No  
Urgency: Yes

**SUBJECT**

Community Assistance, Recovery, and Empowerment (CARE) Court Program

**DIGEST**

This bill permits a CARE court to conduct the initial appearance hearing concurrently with its determination on whether the petition makes a prima facie case of CARE eligibility, provided certain conditions are met.

**EXECUTIVE SUMMARY**

In 2022, the Legislature enacted the CARE Act. The CARE Act is intended to provide essential mental health and substance use disorder services to severely mentally ill Californians – many of whom are homeless or incarcerated – while also preserving these individuals’ self-determination to the greatest extent possible. The first counties implemented the CARE Act in October 2023; all counties in the state were required to begin accepting CARE petitions as of December 1, 2024, unless they received an implementation extension from the Department of Health Care Services (DHCS). As the CARE Act has been implemented across the state, stakeholders have figured out what works well and what needs improvement; according to the author, one ongoing concern is the length of time it takes to go through the CARE process and develop an individually tailored CARE agreement or plan for a qualified respondent.

This bill is intended to give courts the discretion to reduce the timeframe for the CARE process by allowing a CARE court to conduct two hearings concurrently – the hearing on whether the petition establishes a prima facie case that the respondent meets the CARE criteria, and the initial appearance hearing – provided that certain requirements are met. These requirements include counsel being appointed for the respondent; notice of the hearing being provided to the respondent and their counsel; and the court having determined that the petition includes specified required information.

This bill is sponsored by the author. The Committee has not received timely opposition to this bill.

### PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Lanterman-Petris-Short (LPS) Act, which provides for the involuntary detention for treatment and evaluation of people who are gravely disabled, as defined, or a danger to self or others. (Welf. & Inst. Code, div. 5, pt. 1, §§ 5000 et seq.)
- 2) Establishes the Assisted Outpatient Treatment Demonstration Project of 2002, which provides for court-ordered assisted outpatient treatment (AOT) under specified circumstances. (Welf. & Inst. Code, div. 5, pt. 1, ch. 2, art. 9.)
- 3) Establishes the CARE Act. (Welf. & Inst. Code, div. 5, pt. 8, §§ 5970 et seq.)
- 4) Defines the following relevant terms:
  - a) "Care agreement" is a voluntary settlement agreement entered into by the parties, and includes the same elements as a CARE plan to support the respondent in accessing community-based services and supports.
  - b) "Care plan" is an individualized, appropriate range of community-based services and supports, which include clinically appropriate behavioral health care and stabilization medications, housing, and other supportive services, as appropriate.
  - c) "CARE process" is the court and related proceedings to implement the CARE Act.
  - d) "Court-ordered evaluation" means an evaluation ordered by the court in connection with a CARE Act petition, as specified.
  - e) "Department" is the DHCS.
  - f) "Petitioner" is the entity who files a CARE Act petition with the court; if the petitioner is a person other than the director of a county behavioral health agency (CBHA), or their designee, the court shall substitute the director or their designee for the county in which the proceedings are filed as the petitioner at the first hearing.
  - g) "Respondent" is the person who is subject to the petition for the CARE process. (Welf. & Inst. Code, § 5971.)
- 5) Requires the CARE Act to be implemented as follows:
  - a) A first cohort of counties, including Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and the City and County of San Francisco, shall begin no later than October 1, 2023.

- b) A second cohort of counties, representing the remaining counties in the state, shall begin no later than December 1, 2024.
  - c) DHCS shall issue guidelines under which counties can apply for, and be provided, additional time in which to implement the CARE Act, subject to certain conditions and restrictions; DHCS may grant only one extension per county, and the latest a county may implement the CARE Act is December 1, 2025. (Welf. & Inst. Code, § 5970.5.)
- 6) Establishes criteria for a person to qualify for the CARE process, including that the person is 18 years of age or older; the person is experiencing a serious mental disorder, as defined, and has a diagnosis in the disorder class of schizophrenia spectrum and other psychotic disorders; the person is not clinically stabilized in ongoing voluntary treatment; and participation in a CARE plan or agreement would be the least restrictive alternative necessary to ensure the person's recovery and stability. (Welf. & Inst. Code, § 5972.)
- 7) Establishes which adult persons may file a petition to commence the CARE Act process for another person, including a person with whom the potential respondent resides, specified relatives of the potential respondent, and specified medical and public health professionals. (Welf. & Inst. Code, § 5974.)
- 8) Allows a court, if a criminal defendant is found to be mentally incompetent and ineligible for a diversion, to refer the defendant to the CARE program, as provided. (Pen. Code, § 1370.1(b)(1)(D)(iv).)
- 9) Establishes the rights of the respondent, including the right to receive notice of the hearings and the court-ordered evaluation; the right to be represented by counsel at all stages of a CARE proceeding, regardless of ability to pay; the right to present evidence and call witnesses; and the right to an interpreter in all proceedings if necessary for the respondent to fully participate. (Welf. & Inst. Code, § 5976.)
- 10) Establishes the following process as the CARE process:
- a) Upon receipt of a CARE petition, the court must promptly review the petition.
  - b) If the petitioner is the CBHA, and the court determines that the petition establishes a prima facie case of CARE eligibility, the court must set the matter for an initial hearing within 14 days.
  - c) If the petitioner is not the CBHA, and the petition establishes a prima facie case of CARE eligibility, the court must order the CBHA to investigate whether the respondent satisfies the CARE Act criteria and file a report to that effect within 14 court days. If the evidence in the report supports the prima facie showing of the respondent's CARE eligibility, the court must set the matter for an initial hearing within 14 court days.

- d) The court must appoint counsel for the respondent when it determines that the petition makes a prima facie showing of CARE eligibility.
- e) At the initial hearing, the court must determine whether there is reason to believe that the facts of the petition are true; if the court so determines, the court must order the CBHA to work with the respondent, the respondent's counsel, and the respondent's CARE supporter to engage in behavioral health treatment. If the court does not dismiss the petition, the court must set a hearing on the merits of the petition; this may be conducted simultaneously with the initial hearing if the parties so stipulate.
- f) At the hearing on the merits, the court must determine whether the CBHA has established, by clear and convincing evidence, that the petitioner meets the CARE criteria. If the criteria are met, the court must order the CBHA to work with the respondent, respondent's counsel, and the respondent's supporter to engage the respondent in behavioral health treatment and attempt to enter into a CARE agreement; the court must also set a case management hearing within 14 days.
- g) At the case management hearing, the court shall hear evidence as to whether the parties have entered, or are likely to enter, a CARE agreement. If the parties have entered a CARE agreement, the court can approve or modify the CARE agreement and set the matter for a progress hearing. Otherwise, the court can continue the matter for another 14 days of discussions, or order the CBHA to conduct a clinical evaluation of the respondent that addresses the respondent's diagnosis and condition. The court shall set a clinical evaluation hearing to review the evaluation within 21 days.
- h) At the clinical evaluation hearing the court shall review the evaluation and other evidence to determine whether the respondent, by clear and convincing evidence, meets the CARE criteria. If the court so finds, the court must order the CBHA, the respondent, respondent's counsel, and respondent's supporter to jointly develop a CARE plan within 14 days, and set a CARE plan hearing within 14 days.
- i) At the CARE plan hearing, the court may consider the plan or plans submitted by the parties and adopt elements of a CARE plan that support the recovery and stability of the respondent. The issuance of an order approving a CARE plan begins the one-year CARE plan timeline.
- j) After the adoption of a CARE plan, the court shall hold status review hearings at least every 60 days; prior to each hearing, the CBHA must file and serve a report on the respondent's status and progress on the CARE plan.
- k) At the end of one year, the respondent may elect to be graduated from the program or remain in the program for one additional year. The court may also involuntarily reappoint the respondent to the program if certain conditions are met. In no event may a respondent remain in the program for longer than two years total. (Welf. & Inst. Code, §§ 5977-5977.3)

- 11) Establishes conditions under which the court may dismiss a petition or continue a hearing during the CARE process set forth in 10). (Welf. & Inst. Code, §§ 5977-5977.3)
- 12) Allows the court, at any point during CARE proceedings, if it determines, by clear and convincing evidence, that the respondent, after receiving notice, is not participating in the CARE process or is not adhering to their CARE plan, to terminate the respondent's participation. The court is then permitted to make a referral under the LPS Act, as provided. (Welf. & Inst. Code § 5979(a).)
- 13) Provides that, if a respondent was timely provided with all services and supports required by their CARE plan, the fact that the respondent failed to successfully complete the plan and reasons for that failure (a) are facts to be considered by a court in a subsequent hearing under the LPS Act, provided that the hearing occurs within six months of termination of the CARE plan; and (b) create a presumption at that hearing that the respondent needs additional interventions beyond the supports and services provided by the CARE plan. (Welf. & Inst. Code, § 5979(a)(3).)
- 14) Creates a process for penalizing counties or other local government entities that do not comply with CARE court orders. (Welf. & Inst. Code § 5979(b).)
- 15) Provides that either a respondent or a CBHA may appeal an adverse court determination. (Welf. & Inst. Code, § 5979(c).)

This bill:

- 1) Permits a CARE court to hold the initial appearance concurrently with the prima facie determination as to a respondent's CARE eligibility, provided that specified requirements are satisfied at the time of the prima facie determination.
- 2) Provides that the conditions necessary to hold the initial appearance concurrently with the prima facie determination include:
  - a) Counsel has been appointed to represent the respondent.
  - b) The court has determined that the petition includes specified information.
  - c) The CBHA has been ordered to provide notice to the respondent and their counsel with notice of the proceeding, and to the CBHA where the respondent resides if different than the county where the CARE process has commenced.
  - d) The petitioner is present at the hearing.
  - e) The respondent is present at the hearing, has waived appearance through counsel, or is not present and the court has determined that proceeding without the participation or presence of the respondent is in the respondent's best interest, as specified.
  - f) A representative from the CBHA is present at the hearing.

## COMMENTS

### 1. Author's comment

According to the author:

In 2023, CARE Court began as a pilot program in eight counties -- San Francisco, Glenn, Tuolumne, Stanislaus, Orange, Riverside, San Diego, and Los Angeles County. CARE Court is now an active program in all 58 counties as of December of 2024. The pilot has revealed that creating a tailored voluntary treatment plan often takes many months to create and implement. Meanwhile, the respondents in CARE Court can suffer from these delays. SB 27 is designed to address this lengthy court process by allowing a court to combine both the initial appearance and prima facie determination in one hearing in order to more efficiently build treatment plans for CARE Court participants and avoid duplicative hearings and court appearances.

### 2. The CARE Act and its implementation

In 2022, the Legislature enacted the CARE Act.<sup>1</sup> The CARE Act is intended to provide essential mental health and substance use disorder services to severely mentally ill Californians – many of whom are homeless or incarcerated – while also preserving these individuals' self-determination to the greatest extent possible.

The CARE Act has been implemented in two phases. The first cohort of counties – comprised of the Counties of Glenn, Orange, Riverside, San Diego, Stanislaus, and Tuolumne, and the City and County of San Francisco – implemented the CARE Act on October 1, 2023.<sup>2</sup> The remaining counties were required to implement the CARE Act by the end of last year.<sup>3</sup> DHCS may approve an implementation delay if a county experiences a state or local emergency and the implementation is necessary as a result of that emergency; an extension may be granted only once per county, and to no later than December 1, 2025.<sup>4</sup> According to a press release issued by the Judicial Council of California, all 58 counties began accepting CARE petitions as of December 1, 2024.<sup>5</sup>

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<sup>1</sup> Umberg, Ch. 319, Stats. 2022.

<sup>2</sup> Welf. & Inst. Code, § 5970.5(a).

<sup>3</sup> *Id.*, § 5970.5(b).

<sup>4</sup> Welf. & Inst. Code, § 5970.5(c).

<sup>5</sup> Judicial Council of California, Press Release: California Courts Implement CARE Act Statewide (Dec. 2, 2024), <https://newsroom.courts.ca.gov/news/california-courts-implement-care-act-statewide>. All links in this analysis are current as of April 4, 2025.

DHCS issued its first report to the Legislature on the first cohort's implementation of the CARE Act in November 2024.<sup>6</sup> The report included data for the County of Los Angeles, which was not in the first cohort but elected to implement early.<sup>7</sup> In the last quarter of 2023 and the first two quarters of 2024, 557 CARE petitions were filed, 217 of which were dismissed by the court, in large part because the respondents did not meet the requisite criteria for participation.<sup>8</sup> Among the individuals who remained in the process, over 100 people had already been connected to services and housing, and another 240 people were still working through the process; the first participant graduated from CARE court in August 2024.<sup>9</sup> DHCS's next report on the CARE Act will be submitted to the Legislature this July.<sup>10</sup>

### 3. The CARE process

The CARE process is largely overseen by the courts, which are charged with ensuring that eligible individuals – termed “respondents” – are delivered mental health and substance use disorder services, as an alternative to involuntary conservatorship or imprisonment. The California Health and Human Services Agency describes the CARE process as “an upstream diversion to prevent more restrictive conservatorship or incarceration.”<sup>11</sup>

The CARE process is unique within the state insofar as the court process can be initiated by a person who has a relationship with the potential respondent; other mental health procedures that go through the courts, such as AOT, require a county actor to initiate the process.<sup>12</sup> Eligible petitioners include the CBHA; a spouse, parent, sibling, child, or grandparent of the respondent; a treating behavioral health professional; the county public guardian or public conservator; and other enumerated persons and entities.<sup>13</sup>

There are strict criteria for CARE Act eligibility, including that the respondent suffer from a serious mental disorder, as defined; not be currently clinically stabilized in ongoing voluntary treatment; and either be unlikely to survive safely in the community, or need services and supports to avoid grave disability or the risk of serious harm to

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<sup>6</sup> DHCS, The Care (Community, Assistance, Recovery, and Empowerment) Act: Early Implementation: First 8 County Care Courts, First 9 months, First 900 People (Nov. 2024), *available at* <https://www.dhcs.ca.gov/Documents/CARE-Early-Implementation-Report-10-31.pdf>.

<sup>7</sup> *Id.* at p. 6.

<sup>8</sup> *Id.* at pp. 7-8.

<sup>9</sup> *Id.* at pp. 4, 11.

<sup>10</sup> *See id.* at p. 11.

<sup>11</sup> *See* CalHHS, Community Assistance, Recovery & Empowerment Act, <https://www.chhs.ca.gov/care-act/>.

<sup>12</sup> *E.g.*, Welf. & Inst. Code, § 5346 (AOT petition must be filed by a county behavioral health director or their designee; specified family members or other persons may request that a petition be filed, but may not file the petition themselves).

<sup>13</sup> *Id.*, § 5974.

themselves or others.<sup>14</sup> The CARE Act also imposes strict, and short, deadlines for the CARE process; for example, after a petition is filed, the court must set the matter for an initial appearance on the petition within 14 court days if the petition establishes a prima facie case for CARE eligibility;<sup>15</sup> and if the court orders a clinical evaluation of the respondent, the hearing to review the evaluation must be held within 21 days, and the evaluation must be provided to the respondent's counsel no later than five days before that hearing.<sup>16</sup>

The CARE Act provides for two avenues to a court-ordered set of services. If the respondent and the CBHA are able to agree on a plan, it is known as a "CARE agreement"; the court may approve that agreement and set further hearings to monitor the respondent's progress under the agreement.<sup>17</sup> If parties are unable to reach an agreement, one or both parties may present a proposed "CARE plan" to the court; the court may accept a proposed plan or adopt a modified plan, which becomes a court order that lasts for up to one year.<sup>18</sup> The CARE Plan may provide for behavioral health services and housing supports, as well as other services.<sup>19</sup> The court may order medication only if it finds, by clear and convincing evidence, that the respondent lacks the capacity to give informed consent to the administration of medically necessary stabilization medication; to the extent such medication is administered, the medication may not be forcibly administered, and the respondent's failure to comply with a medication order shall not result in a penalty, such as terminating the CARE process.<sup>20</sup>

Eleven months after the CARE Plan was put in place, the court shall hold a hearing to determine whether to graduate the respondent from the CARE Plan or whether, with or without the consent of the respondent, as specified, to keep the respondent in the CARE program.<sup>21</sup> A respondent may be appointed to the CARE process only once, for up to one additional year.<sup>22</sup>

3. This bill permits a CARE court to hold the initial appearance hearing and prima facie determination hearing concurrently, provided certain requirements are met

As discussed above, the CARE process currently requires the court to hold a hearing to determine whether the petition presents a prima facie case that the respondent meets the requirements for CARE Act participation; if the court makes that finding, the court must then hold a second hearing, within 14 court days, at which the respondent will

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<sup>14</sup> *Id.*, § 5972.

<sup>15</sup> *Id.*, § 5977.

<sup>16</sup> *Id.*, § 5977.1(b). The court may continue the evaluation hearing for a maximum of 14 days upon stipulation of the respondent and the CBHA, unless there is good cause for a longer extension.

<sup>17</sup> *Id.*, § 5977.1(a)(2).

<sup>18</sup> *Id.*, § 5977.1(d).

<sup>19</sup> *Id.*, § 5982.

<sup>20</sup> *Id.*, § 5977.1(d)(3).

<sup>21</sup> *Id.*, § 5977.3.

<sup>22</sup> *Ibid.*



make an initial appearance.<sup>23</sup> The prima facie determination is made on an ex parte basis, i.e., without the presence of the respondent, whereas the respondent generally must be present at the initial appearance hearing (or waive presence through counsel).

In order to move qualified CARE participants through the process more efficiently, this bill allows a court to hold the prima facie determination concurrently with the initial appearance hearing, provided that specified requirements are met. These requirements include counsel having been appointed for the respondent; notice having been provided to the respondent and their counsel; and the court having determined that the petition includes specified information regarding the respondent's condition, the outcome of efforts made to voluntarily engage the respondent, and conclusion and recommendations about the respondent's ability to voluntarily engage in services. As a practical matter, it appears that the prima facie determination can be combined with the initial appearance hearing only in cases where the CBHA is the petitioner, because in all other instances, the court is required to order the CBHA to make certain findings at the prima facie determination hearing that must be presented to the court before the initial appearance can be set.

The CARE Act already permits the initial appearance hearing to be held concurrently with the hearing on the merits of the petition, provided that the parties so stipulate and the court approves.<sup>24</sup> By allowing the prima facie determination hearing to be held concurrently with the initial appearance hearing, this bill could enable all three hearings – prima facie determination, initial appearance, and merits determination – to be heard at once, but again, only if the petitioner and respondent so stipulate and the court approves.

### SUPPORT

None received

### OPPOSITION

None received

### RELATED LEGISLATION

#### Pending legislation:

SB 823 (Stern, 2025) expands the CARE Act criteria for participation to include individuals who have a diagnosis of bipolar I disorder. SB 823 is pending before the Senate Health Committee.

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<sup>23</sup> *Id.*, § 5977.

<sup>24</sup> *Id.*, § 5977(b)(7)(B).

SB 367 (Allen, 2025) among other things, permits the reports, evaluations, diagnoses, or other information filed about a CARE court respondent to be used by a CBHA for use in a conservatorship petition under the LPS Act, as specified. SB 367 is pending before the Senate Health Committee.

SB 331 (Menjivar, 2025) among other things, modifies the CARE Act to allow an original petitioner who is not a CBHA to remain involved in the CARE proceeding under certain circumstances, and requires DHCS to provide training on the electronic submission of CARE Act forms. SB 331 is pending before the Senate Health Committee.

Prior legislation:

SB 42 (Umberg, Ch. 640, Stats. 2024) made various changes to the CARE Act, with an urgency clause so that the bill took effect in advance of the second cohort of counties' implementation of the CARE Act on or before December 1, 2024.

SB 35 (Umberg, Ch. 283, Stats. 2023) made various modifications to the CARE Act in advance of the first cohort's implementation of the CARE Act in 2023.

SB 1338 (Umberg, Ch. 319, Stats. 2022) enacted the CARE Act.

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