



The State Bar of California

OPEN SESSION

AGENDA ITEM

MARCH 2023

LEGAL SERVICES TRUST FUND COMMISSION 5.2

DATE: March 24, 2023

TO: Members, Legal Services Trust Fund Commission

FROM: Chris McConkey, Program Supervisor, Office of Access & Inclusion

SUBJECT: Approve Creation of New CARE Court Committee and Delegation of Authority to Approve 2023 CARE Court Grants

EXECUTIVE SUMMARY

The Community Assistance, Recovery, and Empowerment (CARE) Act became law on September 14, 2022.¹ It creates a new court program that starts by October 1, 2023, in seven counties: Glenn, Orange, Riverside, San Francisco, San Diego, Stanislaus, and Tuolumne (cohort one). All other counties must start by December 1, 2024.

The new law requires the Legal Services Trust Fund Commission (commission) to fund qualified legal services projects (QLSPs) and support centers to provide representation or technical help in CARE Act proceedings. This memo recommends that the commission create a committee to advance these awards. It also recommends delegating authority to approve a timeline, request for proposals (RFP), scoring rubric, and reporting requirements for 2023 CARE Court grants.

BACKGROUND

The CARE Act

Senate Bill 1338 became law on September 14, 2022. It creates a new court program to provide services to adults with enumerated severe mental health issues.² The program launches by

¹ The CARE Act is in Attachment A and available at [leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1338](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1338).

² To qualify for CARE Court an individual must, among other criteria:

October 1, 2023, for the seven counties in cohort one. All other counties must launch by December 1, 2024. In January 2023, Governor Newsom’s Office announced that Los Angeles County will accelerate its implementation of CARE Court to December 1, 2023.³

An estimated 7,000-12,000 Californians qualify for CARE Court. The estimate for cohort one is 1,750-3,000 people.⁴ Individuals qualifying for CARE Court must be “unlikely to survive safely in the community without supervision and [their] condition [must be] substantially deteriorating” or they must require help to prevent a relapse or deterioration that is likely to result in grave disability or serious harm to themselves or others.⁵

CARE Court will result in agreements or plans for individuals in CARE Court proceedings (respondents) to access behavioral health care, stabilization medication, housing, and other supports. CARE agreements will be voluntary settlements with respondents. CARE plans will be mandatory for respondents. Please see Attachment A for these and other requirements in the act.

The CARE Court planning grants

The Budget Act of 2022 provided \$250,000 to QLSPs and support centers “for training, support, and coordination of the [CARE] Act.”⁶ On November 16, 2022, the commission delegated authority to State Bar staff to make these planning grants. Fifteen QLSPs and three support centers received an award to participate in discussions about cohort one.⁷ Staff convenes them approximately monthly to report on their participation in county-level planning.

[Be] experiencing a severe mental illness, as defined in paragraph (2) of subdivision (b) of Section 5600.3 and [have] a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders, 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...

Welfare and Institutions Code § 5972(b).

³ The Governor’s press release is available at www.gov.ca.gov/2023/01/13/los-angeles-county-accelerates-care-court-implementation-to-support-californians-with-untreated-severe-mental-illness/.

⁴ Approximately one quarter of Californians reside in cohort one. This range for cohort one divides the estimate for all 58 counties (7,000-12,000 people) by four.

⁵ Welfare and Institutions Code § 5972(d).

⁶ The Budget Act of 2022 is available at leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB179.

⁷ The 18 planning grantees are: Affordable Housing Advocates, Asian Pacific Islander Legal Outreach, Bay Area Legal Aid, California Rural Legal Assistance, Inc., Coalition of California Welfare Rights Organizations, Community Legal Aid SoCal, Disability Rights Education & Defense Fund, Inland Counties Legal Services, Justice & Diversity

The 2023 CARE Court grants

The Budget Act of 2023 will specify the funding for QLSPs and support centers to serve cohort one and Los Angeles County. It might also describe how the commission must distribute those funds (e.g., via formula, competitive awards, or combination of the two). The amount proposed in the Governor’s January budget for cohort one is \$6.1 million. That is before accounting for Judicial Council of California and State Bar administrative costs. The total might change in the Governor’s May budget revision, Legislature’s June budget bill, and/or the final budget act.

The CARE Act requires the commission to fund QLSPs and support centers to provide services for CARE Act proceedings, agreements, and plans. If QLSPs are unavailable to represent a respondent, courts must appoint a public defender. The proposed \$6.1 million, therefore, may need to cover QLSP, support center, public defender, Judicial Council of California, and State Bar costs.

DISCUSSION

The commission will need to make awards to QLSPs and support centers to serve cohort one starting this October. It might also need to make awards to serve Los Angeles County starting this December. The Budget Act of 2023, however, will likely pass in late June or early July. That makes it challenging—if not impractical—to finalize these awards without a committee.

A committee could release an RFP and review applications more nimbly than might the full commission. While a new draft of the budget will become available by May 14, the budget bill may pass as late as June 15. Until then, determinative features will be pending. Those include the amount of funding for QLSPs, support centers, and public defenders as well as the distribution method. A committee could meet several times this spring and summer to react to budget developments.

Staff has drafted two timelines to illustrate the need for flexibility. Both seek to balance the need for confidence in the amount and parameters for 2023 awards with the need to know as early as possible who will represent respondents on October 1. One timeline would release the application in May, after the Governor’s May revise. The second timeline would release the application in June, after the Legislature passes a budget bill:

Table 1. Example Timeline and Roles (May Application Release)

Example dates*	Activity
Mar. 24, 2023	Commission creates a committee and delegates authority
May 14, 2023	(The Governor releases a revised budget)
May 22, 2023	Committee approves funding parameters, RFP, etc.

Center of the Bar Association of San Francisco, Legal Aid Society of San Bernardino, Legal Aid Society of San Diego, Legal Assistance to the Elderly, Mental Health Advocacy Services, OneJustice, Open Door Legal, Public Law Center, Senior Advocacy Network, and University of San Diego Legal Clinics.

Example dates*	Activity
May 26, 2023	Application releases
Jun. 12, 2023	Applications due
Jun. 15, 2023	(The Legislature passes a budget bill)
Jun. 13-30, 2023	Commissioner-staff team reviews applications
Jul. 2023	(The Budget Act of 2023 passes)
Jul. 2023	Committee recommends awards
Jul.-Aug. 2023	Commission approves awards
Aug.-Sep. 2023	Applicants sign grant agreements
Oct. 1, 2023	CARE Court begins for cohort one; grant begins by this date

Table 2. Example Timeline and Roles (June Application Release)

Example dates*	Activity
Mar. 24, 2023	Commission creates a committee and delegates authority
May 14, 2023	(The Governor releases a revised budget)
Jun. 15, 2023	(The Legislature passes a budget bill)
Jun. 23, 2023	Committee approves funding parameters, RFP, etc.
Jun. 30, 2023	Application releases
Jul. 2023	(The Budget Act of 2023 passes)
Jul. 17, 2023	Applications due
Jul. 18-31, 2023	Commissioner-staff team reviews applications
Aug. 2, 2023	Committee recommends awards
Aug. 10, 2023	Commission approves awards
Aug.-Sep. 2023	Applicants sign grant agreements
Oct. 1, 2023	CARE Court begins for cohort one; grant begins by this date

* Grantmaking dates are subject to commission or committee approval and commissioner, applicant, and State Bar staff availability.

CONCLUSION

The commission will need to make 2023 CARE Court grants that start by October 1. Given the need to react quickly to state budget developments, the commission would benefit from creating a committee to oversee this year's awards.

RECOMMENDATION

Should the commission agree, passage of the following resolution is recommended:

RESOLVED, that the Legal Services Trust Fund Commission (commission) creates a CARE Court Grants Committee (committee); and it is

FURTHER RESOLVED, that the commission delegates authority to the committee to approve a timeline and application for making 2023 CARE Court grants and—if consistent with the Budget Act of 2023—a request for proposals, scoring rubric, and reporting requirements; and it is

FURTHER RESOLVED, that a commissioner-staff team will review the 2023 CARE Court grant applications in consultation with the committee and that the committee will make award recommendations to the commission.

ATTACHMENT

- A.** The CARE Act (SB 1338).

Senate Bill No. 1338

CHAPTER 319

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 courts.

[Approved by Governor September 14, 2022. Filed with
Secretary of State September 14, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1338, 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, contingent upon the State Department of Health Care Services developing an allocation to provide financial assistance to counties, would enact the Community Assistance, Recovery, and Empowerment (CARE) Act, which would authorize specified adult 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 currently experiencing a severe mental illness and have a diagnosis identified in the disorder class schizophrenia and other psychotic disorders, and who meet other specified criteria. The bill would require the Counties of Glenn, Orange, Riverside, San Diego, Stanislaus, and Tuolumne and the City and County of San Francisco to implement the program commencing October 1, 2023, and the remaining counties to commence no later than December 1, 2024. The bill would require the Judicial Council to develop a mandatory form for use in filing a CARE process petition and 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 Act 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. 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 for the respondent, unless the respondent has retained their own counsel. The bill would require the Legal Services Trust Fund Commission at the State Bar to provide funding to qualified legal services projects to provide legal counsel in CARE Act proceedings, as specified. The bill would authorize the respondent to have a supporter, as defined. The bill would require the State Department of Health Care Services, in consultation with specified stakeholders, to provide optional training and technical resources for volunteer supporters on the CARE process, community services and supports, supported decisionmaking, and other topics, as prescribed.

This bill 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 convene a workgroup 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 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 to provide training to counsel, as specified. The bill would require the Judicial Council, in consultation with the department and others, to provide training to judges regarding the CARE process, as specified.

This bill would authorize the court, at any time during the CARE process, if it finds the county or other local government entity not complying with court orders, to report that finding to the presiding judge of the superior court or their designee. If the presiding judge or their designee finds, by clear and convincing evidence, that the local government has substantially failed to comply with the CARE process, the presiding judge may impose a fine of up to \$1,000 per day and, if the court finds persistent noncompliance, to appoint a special master 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, upon appropriation, be allocated and distributed by the department to the local government entity that paid the fines to serve individuals who have schizophrenia spectrum or other psychotic disorders who are experiencing or are at risk of homelessness, criminal justice involvement, hospitalization, or conservatorship.

This bill would require the department, in consultation with the Judicial Council, to develop an annual reporting schedule for the submission of CARE Act data from the trial courts and would require the Judicial Council to aggregate the data and submit it to the department. The bill would require

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

This bill would exempt a county or an employee or agent of a county from civil or criminal liability for any action by a respondent in the CARE process, except when an act or omission constitutes gross negligence, recklessness, or willful misconduct.

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 process 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, 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 process.

(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) This bill would state that its provisions are severable.

(6) This bill would incorporate additional changes to Section 1370.01 of the Penal Code proposed by SB 1223 to be operative only if this bill and SB 1223 are enacted and this bill is enacted last.

(7) 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.

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) process.

(d) California has made unprecedented investments in behavioral health, housing, and combating homelessness, and the CARE process helps those with the greatest needs access these resources and services. The CARE process 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.

(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 provision of legal counsel for CARE proceedings, agreements, and plans, as well as the promotion of supported decisionmaking.

(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 5977.1 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 5977.1, 5977.2, 5977.3, and 5982 of the Welfare and Institutions 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, 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, 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.

(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.

(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 5977.1 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 5977.1, 5977.2, 5977.3, and 5982 of the Welfare and Institutions 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, 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 Institution 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. 4.5. 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), (c), (d), or (g) 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 Institution 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. This part shall be implemented as follows, with technical assistance and continuous quality improvement, pursuant to Section 5983:

(a) A first cohort of counties, which shall include the Counties of Glenn, Orange, Riverside, San Diego, Stanislaus, and Tuolumne, and the City and County of San Francisco, shall begin no later than October 1, 2023, unless the county is provided additional time pursuant to paragraph (2) of subdivision (c).

(b) A second cohort of counties, representing the remaining population of the state, shall begin no later than December 1, 2024, unless the county is provided additional time pursuant to paragraph (2) of subdivision (c).

(c) (1) The department shall issue guidelines under which counties can apply for, and be provided, additional time to implement this part. The guidelines 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).

(2) The department shall approve implementation delay for the first or second cohort if the county experiences a state or local emergency and the

delay of the provision of the CARE process is necessary as a result of the emergency.

(3) The department shall only grant extensions once and no later than December 1, 2025.

(d) This part shall become operative only upon the department, in consultation with county stakeholders, developing a CARE Act allocation to provide state financial assistance to counties to implement the care process in this act.

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, as set forth in this part, which include clinically appropriate behavioral health care and stabilization medications, housing, and other supportive services, as appropriate, pursuant to Section 5982.

(c) “CARE process” means the court and related proceedings to implement the CARE Act.

(d) “Counsel” means the attorney representing the respondent, provided pursuant to Section 5980, or chosen by the respondent, in CARE Act proceedings and matters related to CARE agreements and CARE plans.

(e) “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.

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

(g) “Department” means the State Department of Health Care Services.

(h) “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 local government entities and is not enforceable by the court.

(i) “Homeless outreach worker” means a person who engages people experiencing homelessness to assess for unmet needs, offer information, services, or other assistance, or provide care coordination.

(j) “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).

(k) “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 department pursuant to Section 5751.2.

(l) “Parties” means the petitioner, 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 paragraph (4) of subdivision (d) of Section 5977.1.

(m) “Petitioner” means the entity who files the CARE Act petition with the court. Additionally, if the petitioner is a person listed in Section 5974 other than the director of a county behavioral health agency, or their designee, the petitioner shall have the right to file a petition with the court, but at the initial hearing the court shall substitute the director of a county behavioral health agency, or their designee, of the county in which the proceedings are filed as petitioner. The petitioner who filed the petition may, at the court’s discretion and in furtherance of the interests of the respondent, retain rights as described in subparagraph (A) of paragraph (7) of subdivision (b) of Section 5977.

(n) “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.

(o) “Respondent” means the person who is subject to the petition for the CARE process.

(p) “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.

(q) “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 process, including a CARE agreement, a CARE plan, and developing a graduation plan. A supporter shall not act independently.

CHAPTER 2. PROCESS

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

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

(b) The person is currently experiencing a severe mental illness, as defined in paragraph (2) of subdivision (b) of Section 5600.3 and has a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders, 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 the CARE process.

(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 a CARE plan or CARE agreement 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 participation in a CARE plan or CARE agreement.

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

(1) The county in which the respondent resides.

(2) The county where the respondent is found.

(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 adult persons may file a petition to initiate the CARE process:

(a) A person with whom the respondent resides.

(b) A spouse, parent, sibling, child, or grandparent or other individual 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 resides or is found.

(i) The director of county adult protective services, or their designee, of the county in which the respondent 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) The respondent.

5975. The Judicial Council shall develop a mandatory form for use to file a CARE process petition with the court and any other forms necessary for the CARE process. 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 a pleading in CARE Act proceedings that was without merit or 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 entitled to be represented by counsel at all stages of a proceeding commenced under this chapter, regardless of the ability to pay.
- (d) Be 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 conducting the hearing finds that the public interest in an open hearing clearly outweighs the respondent's interest in privacy.

(e) All reports, evaluations, diagnoses, or other information related to the respondent's health shall be confidential.

(f) 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 petitioner has made a prima facie showing that the respondent is, or may be, a person described in Section 5972.

(2) If the court finds that the petitioner has not made a prima facie showing that the respondent is, or may be, a person described in Section 5972, the court may dismiss the case without prejudice subject to consideration of Section 5975.1.

(3) If the court finds that the petitioner has made a prima facie showing that the respondent is, or may be, a person described in Section 5972, the court shall do one of the following:

(A) If the petitioner is the director of a county behavioral health agency, or their designee, the court shall do the following:

(i) Set the matter for an initial appearance on the petition within 14 court days.

(ii) Appoint a qualified legal services project, as defined in Sections 6213 to 6214.5, inclusive, of the Business and Professions Code, to represent the

respondent. If no legal services project has agreed to accept these appointments, a public defender shall be appointed to represent the respondent. Unless replaced by respondent's own counsel, appointed counsel shall represent the respondent in any proceeding under this part, and shall represent the individual, as needed, in matters related to CARE agreements and CARE plans, including appeals.

(iii) Determine if the petition includes all of the following information, or order the county to submit a report within 14 court days that addresses all the following:

(I) A determination as to whether the respondent meets, or is likely to meet, the criteria for the CARE process.

(II) The outcome of efforts made to voluntarily engage the respondent prior to the filing of the petition.

(III) Conclusions and recommendations about the respondent's ability to voluntarily engage in services.

(iv) Order the county behavioral health director or their designee to provide notice to the respondent, the appointed counsel, and the county behavioral health agency in the county where the respondent resides, if different from the county where the CARE process has commenced.

(B) If the petitioner is a person other than the director of a county behavioral health agency, or their designee, the court shall order a county agency, or their designee, as determined by the court, to investigate, as necessary, and file a written report with the court within 14 court days and provide notice to the respondent and petitioner that a report has been ordered. The written report shall include all of the following:

(i) A determination as to whether the respondent meets, or is likely to meet, the criteria for the CARE process.

(ii) The outcome of efforts made to voluntarily engage the respondent during the 14-day report period.

(iii) Conclusions and recommendations about the respondent's ability to voluntarily engage in services.

(4) If, upon a request by the county, the court finds that the county agency is making progress to engage the respondent, the court may, in its discretion, grant the county no more than 30 additional days to continue to work with, engage, and enroll the individual in voluntary treatment and services. The county shall provide notice to the respondent and petitioner that an extension for filing a report has been granted.

(5) Upon receipt of the report described in subparagraph (B) of paragraph (3), the court shall, within five days, take one of the following actions:

(A) If the court determines that voluntary engagement with the respondent is effective, and that the individual has enrolled or is likely to enroll in voluntary behavioral health treatment, the court shall dismiss the matter.

(B) If the court determines that county's report does not support the petition's prima facie showing that the respondent is a person described in Section 5972, the court shall dismiss the matter. This section shall not prevent a county behavioral health agency from continuing to voluntarily

engage with individuals who do not meet CARE criteria, but who are in need of services and supports.

(C) If the court determines that county's report does support the petition's prima facie showing that the respondent is, or may be, a person described in Section 5972, and engagement with the county was not effective, the court shall do all of the following:

(i) Set an initial appearance on the petition within 14 court days.

(ii) 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, unless the respondent has retained their own counsel. Unless replaced by respondent's own counsel, appointed counsel shall represent the respondent in any proceeding under this part, and shall represent the individual, as needed, in matters related to CARE agreements and CARE plans.

(iii) Order the county to provide notice of the hearing to the petitioner, the respondent, the appointed counsel, the county behavioral health agency in the county where the respondent resides, and, if different, the county where the CARE court proceedings have commenced.

(b) At the initial appearance on the petition, all of the following shall apply:

(1) The court shall permit the respondent to substitute their own counsel.

(2) Petitioner shall be present. If the petitioner is not present, the matter may be dismissed.

(3) Respondent may waive personal appearance and appear through counsel. If the respondent does not waive personal appearance and does not appear at the hearing, and the court makes a finding on the record that reasonable attempts to elicit the attendance of the respondent have failed, the court may conduct the hearing in the respondent's absence if the court makes a finding on the record that conducting the hearing without the participation or presence of the respondent would be in the respondent's best interest.

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

(5) A supporter may be appointed.

(6) If the respondent self-identifies that they are enrolled in a federally recognized Indian tribe or 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. The tribal representative shall be entitled to notice by the county of the initial appearance.

(7) (A) If the petitioner is a person described in Section 5974 other than the director of a county behavioral health agency, or their designee, the court shall issue an order relieving the petitioner and appointing the director of the county behavioral health agency or their designee as the substitute petitioner.

(B) If the petitioner who is relieved pursuant to this paragraph is described in subdivision (a) or (b) of Section 5974, all of the following apply:

(i) The petitioner shall have the right to participate in the initial hearing to determine the merits of the petition, pursuant to subparagraphs (A) and (B) of paragraph (8).

(ii) The court may, in its discretion, assign ongoing rights of notice.

(iii) The court may, additionally, allow for participation and engagement in the respondent's CARE proceedings if the respondent consents.

(iv) The petitioner may file a new petition with the court, pursuant to Section 5974, if the matter is dismissed and there is a change in circumstances.

(C) If the petitioner who is relieved pursuant this paragraph is described in Section 5974, other than persons described in subparagraph (a) or (b) of that section, the court shall not assign ongoing rights to the entity that originally filed the CARE petition, other than the right to make a statement at the hearing on the merits of the petition as provided in subparagraphs (A) and (B) of paragraph (8).

(8) (A) The court shall set a hearing on the merits of the petition within 10 days, at which time the court shall determine by clear and convincing evidence if the respondent meets the CARE criteria in Section 5972. 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, including the petition submitted by the petitioner who is relieved.

(B) The hearing on the merits of the petition may be conducted concurrently with the initial appearance on the petition upon stipulation of the petitioner and respondent and agreement by the court.

(c) (1) If, at the hearing on the merits of the petition, the court finds, by clear and convincing evidence, that the respondent does not meet the CARE criteria in Section 5972, the court shall dismiss the case without prejudice, unless the court makes a finding, on the record, that the initial petitioner's filing was not in good faith.

(2) If, at the hearing on the merits of the petition, the court finds that the petitioner has shown by clear and convincing evidence that the respondent meets the CARE criteria in Section 5972, the court shall order the county behavioral health agency to work with the respondent, the respondent's counsel, and the supporter to engage in behavioral health treatment and determine if the parties will be able to enter into a CARE agreement. The court shall set a case management hearing within 14 days.

(3) If the respondent is enrolled in a federally recognized Indian tribe, the respondent 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 hear evidence as to whether the parties have entered, or are likely to enter, into a CARE agreement.

(2) If the court finds that the parties have entered, or are likely to enter, into a CARE agreement, the court shall do both of the following:

(A) Approve the terms of the CARE agreement or modify the terms of the CARE agreement and approve the agreement as modified by the court.

(B) Continue the matter and set a progress hearing for 60 days.

(b) If the court finds that the parties have not entered into a CARE agreement, and are not likely to enter into a CARE agreement, the court shall order the county behavioral health agency, through a licensed behavioral health professional, to conduct a clinical evaluation of the respondent, 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. The evaluation shall address, at a minimum, the following:

(1) A clinical diagnosis of the respondent.

(2) Whether the respondent has the legal capacity to give informed consent regarding psychotropic medication.

(3) Any other information as ordered by the court or that the licensed behavioral health professional conducting the evaluation determines would help the court make future informed decisions about the appropriate care and services the respondent should receive.

(4) An analysis of recommended services, programs, housing, medications, and interventions that support the recovery and stability of the respondent.

(c) (1) The court shall set a clinical evaluation hearing to review the evaluation within 21 days. The court shall order the county to file the evaluation with the court and provide the evaluation to the respondent's counsel no later than five days prior to the scheduled clinical evaluation hearing. 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.

(2) At the clinical evaluation review hearing, the court shall review the evaluation and any other evidence from the county behavioral health agency and the respondent. The county behavioral health agency 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) At the conclusion of the hearing, the court shall make orders as follows:

(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 supporter to jointly develop a CARE plan within 14 days.

(B) 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.

(4) If the respondent is a self-identified 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.

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

(6) 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 the court finds good cause for an extension. The party requesting an extension of time for the CARE plan review hearing shall provide notice to the opposing party and their counsel of the request for extension of time, and the court's order if the request is granted.

(d) (1) At the CARE plan review hearing, the parties shall present their plans to the court. The county behavioral health agency or the respondent, or both, may present a proposed CARE plan.

(2) After consideration of the plans proposed by the parties, the court shall adopt the elements of a CARE plan that support the recovery and stability of the respondent. 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. These orders shall constitute the CARE plan.

(3) A court may 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 stabilization 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 termination of the CARE plan pursuant to Section 5979.

(4) 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. If the local entity agrees to provide the service or support, it may request to be added as a party by the court.

(5) If, after presentation of the CARE plan or plans, 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 by the county behavioral health agency for which the court may grant a continuance of no more than 14 days, unless there is good cause for a longer extension.

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

(e) The issuance of an order approving a CARE plan pursuant to paragraph (2) of subdivision (d) begins the CARE process timeline, which shall not exceed one year.

5977.2. (a) (1) At intervals set by the court, but not less frequently than 60 days after the court orders the CARE plan, the court shall hold a status review hearing. The county behavioral health agency shall file with the court and serve on the respondent, and the respondent's counsel and supporter, a report not fewer than five court 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) The respondent shall be permitted to respond to the report submitted by the county behavioral health agency and to the county behavioral health agency's testimony. The respondent shall be permitted to introduce their own information and recommendations.

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

(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 process 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. Not fewer than five court days prior to the one-year status hearing, the county behavioral health agency shall file a report with the court and shall serve the report on the respondent and the respondent's counsel and supporter. The report shall include the following information:

(A) Progress the respondent has made on the CARE plan including a final assessment of the respondent's stability.

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

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

(D) Recommendations for next steps, including what ongoing and additional services would benefit the respondent that the county behavioral health agency can facilitate or provide.

(2) At an evidentiary hearing, the respondent shall be permitted to respond to the report submitted by the county behavioral health agency and to the county behavioral health agency's testimony. Respondent shall be permitted to introduce their own information and recommendations. The respondent shall have the right at the hearing to call witnesses and to present evidence

as to whether the respondent agrees with the report. The respondent may request either to be graduated from the program or to remain in the program.

(3) The court shall issue an order as follows:

(A) If the respondent elects to be graduated from the program, the court shall order the county behavioral health agency and the respondent to work jointly on a graduation plan. The court shall schedule a hearing in the 12th month after adoption of the CARE plan for presentation of the graduation plan. The court shall review the voluntary graduation plan and recite the terms on the record. The graduation plan shall not place additional requirements on local government entities and is not enforceable by the court, except that the graduation plan may, at respondent's election, include a psychiatric advance directive, which shall have the force of law. Upon completion of the hearing, the respondent shall be officially graduated from the program.

(B) If the respondent elects to remain in the CARE process, respondent may request any amount of time, up to and including one additional year. The court may permit the ongoing voluntary participation of the respondent if the court finds both of the following:

- (i) The respondent did not successfully complete the CARE plan.
- (ii) The respondent would benefit from continuation of the CARE plan.

(C) The court shall issue an order permitting the respondent to continue in the CARE plan or denying respondent's request to remain in the CARE plan, and state its reasons on the record.

(b) 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 CARE process.

(2) All services and supports required through the CARE process were provided to the respondent.

- (3) The respondent would benefit from continuation in the CARE process.

- (4) The respondent currently meets the requirements in Section 5972.

(c) A respondent may only be reappointed to the CARE process once, for up to one additional year.

5977.4. (a) In all CARE Act proceedings, the judge shall control the 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 will be appointed.

5978. (a) A court may refer an individual from assisted outpatient treatment, as well as from conservatorship proceedings pursuant Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 (LPS conservatorship) to CARE Act proceedings. If the individual is being referred from assisted outpatient treatment, the county behavioral health director or their designee shall be the petitioner. If the individual is being referred from LPS conservatorship proceedings, the conservator shall be the petitioner pursuant to Section 5974.

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

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 the CARE process, 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 process.

(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.

(4) The respondent's failure to comply with an order shall not result in a penalty outside of this section, including, but not limited to, contempt or a failure to appear.

(5) The respondent's failure to comply with a medication order shall not result in any penalty, including under this section.

(b) (1) If, at any time during the CARE process, the court finds that the county or other local government entity is not complying with court orders, the court shall report that finding to the presiding judge of the superior court or their designee.

(2) (A) The presiding judge or their designee shall issue an order to show cause why the local government entity should not be fined as set forth in this section. The time set for hearing shall be no earlier than 15 days after the date of the order. The scheduled date of the hearing shall allow adequate time for notice of the hearing to be served upon the local government entity.

(B) The presiding judge, or their designee, shall consider the matter on the record established at the hearing. If the presiding judge or their designee finds, by clear and convincing evidence, that the local government entity has substantially failed to comply with this part, or with lawful orders issued by a court under this part, the presiding judge or their designee may issue an order imposing a fine under this section.

(C) A fine under this section shall be in an amount of up to one thousand dollars (\$1,000) per day, not to exceed \$25,000 for each individual violation identified in the order imposing fines.

(D) (i) Funds collected pursuant to this subdivision shall be deposited in the CARE Act Accountability Fund, which is hereby created in the State Treasury. Upon appropriation, the department shall administer the funds annually, and shall issue guidance, as necessary, to local government entities, pursuant to subdivision (b) of Section 5984, regarding the distribution and conditions associated with the administered funds.

(ii) All moneys in the fund shall be allocated and distributed to the local government entity that paid the fines, to be used by that entity to serve individuals who have schizophrenia spectrum or other psychotic disorders and who are experiencing, or are at risk of, homelessness, criminal justice involvement, hospitalization, or conservatorship.

(3) If, after notice and hearing as set forth in paragraph (2), the presiding judge or their designee finds, by clear and convincing evidence, that the local government entity is persistently noncompliant with this part, or with lawful orders issued by a court under this part, the presiding judge or their designee may appoint a special master to secure court-ordered care for the respondent at the local government entity's cost. The presiding judge, or their designee, shall not make an order under this paragraph unless they have received five or more reports under paragraph (1) pertaining to the same local government entity within a one-year period.

(4) In determining the application of the remedies available under this section, the court shall consider whether there are any mitigating circumstances impairing the ability of the local government entity to fully comply with the requirements of this part, or with court orders issued under this part. The court may consider whether the local government entity is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

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

CHAPTER 4. SUPPORTER AND COUNSEL

5980. (a) Subject to appropriation, the department, in consultation with disability rights groups, county behavioral health and aging agencies, individuals with lived expertise, families, racial justice experts, and other appropriate stakeholders, shall provide optional training and technical resources for volunteer supporters on the CARE process, community services and supports, supported decisionmaking, people with behavioral health conditions, trauma-informed care, family psychoeducation, and psychiatric advance directives. The department may consult with other state and national public and nonprofit agencies and organizations and the Judicial Council to align supported decisionmaking training with best practices for persons with mental illnesses, intellectual and developmental disabilities, other disabilities, and older adults. The department may enter into a technical assistance and training agreement for this purpose, pursuant to Section 5984.

(b) The 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 process.

5981. (a) Notwithstanding any other provision of this part, the respondent may have 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 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 supporter because of any conflict of interest with the respondent, and shall remove the 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 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 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 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 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. (a) The Legal Services Trust Fund Commission at the State Bar 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 Act 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.

(b) For purposes of implementing this part, the Legal Services Trust Fund Commission may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis, or award grants, provided that they make a finding that both of the following are satisfied:

(1) The state agency will retain control over the distribution of funds to the contractor or grantee.

(2) The contract or grant includes provisions to ensure transparency, accountability, and oversight in delivering the services, including measurement of outcomes established pursuant to Sections 5984, 5985, and 5986.

CHAPTER 5. CARE PLAN

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

(1) Behavioral health services funded through the 1991 and 2011 Realignment, Medi-Cal behavioral health, health care plans and insurers, 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 process participants shall be prioritized for any appropriate bridge housing funded by the Behavioral Health Bridge Housing program.

(c) If the county behavioral health agency elects not to enroll the respondent into a full service partnership, as defined in Section 3620 of Title 9 of the California Code of Regulations, the court may request information on the reasons for this and any barriers to enrollment.

(d) All CARE plan services and supports ordered by the court are subject to available funding and all applicable federal and state statutes and regulations, contractual provisions, and policy guidance governing initial and ongoing program eligibility. 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 suggested, although not ordered, by the court, subject to all applicable federal and state statutes, regulations, contractual provisions, and policy guidance.

(e) 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.

(f) (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) 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) Convene a working group to 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. The working group shall meet no more than quarterly. The working group shall meet during the implementation and shall end no later than December 31, 2026.

(b) The department shall provide training and technical assistance to county behavioral health agencies to support the implementation of this part, including training regarding the CARE process, CARE agreement and plan services and supports, supported decisionmaking, the supporter role, trauma-informed care, elimination of bias, psychiatric advance directives, family psychoeducation, and data collection.

(c) The Judicial Council, in consultation with the department, 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 process, CARE agreement and plan services and supports, working with the supporter, supported decisionmaking, the supporter role, the family role, trauma-informed care, elimination of bias, best practices, and evidence-based models of care for people with severe behavioral health conditions.

(d) The department, in consultation with other relevant state departments and the California Interagency Council on Homelessness, shall provide training to counsel regarding the CARE process and CARE agreement and plan services and supports.

5984. (a) For purposes of implementing this part, the California Health and Human Services Agency and the department 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 and 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.

5985. (a) The department shall develop, in consultation with county behavioral health agencies, other relevant state or local government entities, disability rights groups, individuals with lived experience, families, counsel, racial justice experts, and other appropriate stakeholders, an annual CARE Act report. 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 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 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 identified by the department, shall provide the required data to the department, in a format and frequency as directed by the department.

(d) (1) In consultation with the Judicial Council, the department shall develop an annual reporting schedule for the submission of CARE Act data from the trial courts.

(2) Data from the trial courts shall be submitted to the Judicial Council, which shall aggregate the data and submit it to the department consistent with the reporting schedule developed pursuant to paragraph (1).

(3) On an annual basis to be determined by the Judicial Council and consistent with the annual reporting schedule developed pursuant to paragraph (1), the trial courts shall report to the Judicial Council the following data related to CARE Act petitions:

(A) The number of petitions submitted pursuant to Section 5975.

(B) The number of initial appearances on the petition set pursuant to paragraph (3) of subdivision (a) of Section 5977.

(C) The total number of hearings held pursuant to this part.

(e) The annual report shall include process measures to examine the scope of impact and monitor the performance of CARE Act model implementation. The report shall include, at a minimum, all of the following:

(1) The demographics of participants, including, but not limited to, the age, sex, race, ethnicity, disability, languages spoken, sexual orientation, gender identity, housing status, veteran status, immigration status, health coverage status, including Medi-Cal enrollment status, and county of residence, to the extent statistically relevant data is available.

(2) The services and supports ordered, the services and supports provided, and the services and supports ordered but not provided.

(3) The housing placements of all participants during the program and at least one year following the termination of the CARE plan, to the extent administrative data are available to report the latter. Placements include, but are not limited to, transition to a higher level of care, independent living in the person's own house or apartment, community-based housing, community-based housing with services, shelter, and no housing.

(4) Treatments continued and terminated at least one year following termination of the CARE plan, to the extent administrative data are available.

(5) Substance use disorder rates and rates of treatment among active CARE plan participants and former participants at least one year following termination of the CARE plan, to the extent administrative data are available to report the latter.

(6) Detentions and other Lanterman-Petris-Short Act involvement for participants with an active CARE plan and for former participants at least one year following termination of the CARE plan, to the extent administrative data are available to report the latter.

(7) Criminal justice involvement of participants with an active CARE plan and for former participants at least one year following termination of the CARE plan, to the extent administrative data are available to report the latter.

(8) Deaths among active participants and for former participants at least one year following termination of the CARE plan, along with causes of death, to the extent administrative data are available.

(9) The number, rates, and trends of petitions resulting in dismissal and hearings.

(10) The number, rates, and trends of supporters.

(11) The number, rates, and trends of voluntary CARE agreements.

(12) The number, rates, and trends of ordered and completed CARE plans.

(13) Statistics on the services and supports included in CARE plans, including court orders for stabilizing medications.

(14) The rates of adherence to medication.

(15) The number, rates, and trends of psychiatric advance directives created for participants with active CARE plans.

(16) The number, rates, and trends of developed graduation plans.

(17) 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.

(18) A health equity assessment of the CARE Act to identify demographic disparities based on demographic data in paragraph (1), and to inform disparity reduction efforts.

(f) (1) The report shall include, at a minimum, information on the effectiveness of the CARE Act model in improving outcomes and reducing disparities, 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.

(2) Data shall be stratified by age, sex, race, ethnicity, languages spoken, disability, sexual orientation, gender identity, housing status, veteran status, immigration status, health coverage source, and county, to the extent statistically relevant data is available. Information released or published pursuant to this section shall not contain data that may lead to the identification of respondents or information that would otherwise allow an individual to link the published information to a specific person. Data published by the department shall be deidentified in compliance with Section 164.514(a) and (b) of Title 45 of the Code of Federal Regulations.

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

5986. (a) An independent, research-based entity shall be retained by the department to develop, in consultation with county behavioral health agencies, county CARE courts, racial justice experts, and other appropriate stakeholders, including providers and CARE court participants, 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 include results from a survey conducted of program participants. 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.

5987. A county, or an employee or agent of a county, shall not be held civilly or criminally liable for any action by a respondent in the CARE process, except when the act or omission of a county, or the employee or agent of a county, constitutes gross negligence, recklessness, or willful misconduct. This section does not limit any immunity provided under any other law.

SEC. 8. The Legislature finds and declares that Section 7 of this act, which adds Sections 5976.5 and 5977.1 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 Act proceeding, including medical and psychological records.

SEC. 9. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 10. Section 4.5 of this bill incorporates amendments to Section 1370.01 of the Penal Code proposed by both this bill and SB 1223. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 1370.01 of the Penal Code, and (3) this bill is enacted after SB 1223, in which case Section 4 of this bill shall not become operative.

SEC. 11. 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.