

---

## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2021 - 2022 Regular Session

---

### SB 1338 (Umberg) - Community Assistance, Recovery, and Empowerment (CARE) Court Program

**Version:** April 7, 2022

**Urgency:** No

**Hearing Date:** May 19, 2022

**Policy Vote:** JUD. 10 - 0, HEALTH 9 - 0

**Mandate:** Yes

**Consultant:** Matthew Fleming

**Bill Summary:** Senate Bill 1338 would establish the Community Assistance, Recovery, and Empowerment (CARE) Court Program, which would authorize specified persons to petition a civil court to create a CARE plan and implement services for individuals suffering from specified mental health disorders. If the court determines the individual is eligible for the CARE Court Program, the court would order the implementation of a CARE plan, as devised by the relevant county behavioral services agency, and would oversee the individual's participation in the plan.

\*\*\*\*\* **ANALYSIS ADDENDUM – SUSPENSE FILE** \*\*\*\*\*

The following information is revised to reflect amendments  
adopted by the committee on May 19, 2022

#### **Fiscal Impact:**

- Judicial Branch. According to the Judicial Council of California, \$40 million to \$50 million related to conducting additional hearings, expanding self-help centers, and updating court case management systems. The Judicial Council further states that if funding is not provided for new workload and associated costs created by this bill, it would likely result in delays and prioritization of court cases and would impact access to justice.\* (General Fund)
- Department of Health Care Services (DHCS). Staff anticipates unknown, significant ongoing costs (tens of millions, General Fund) for multi-year authority for contracts available for five years. In addition, staff notes unknown, significant ongoing costs (low millions, General Fund) for the department to provide training to counsel regarding the CARE statute and CARE plan services and supports.

Anticipated workload needs would include: designing technical assistance for counties on the CARE Court model; overseeing contractors to implement the technical assistance; overseeing stakeholder engagement on the CARE Court model; developing guidance for counties on CARE Court responsibilities; implementing processes to support ongoing data collection and reporting; analyzing data and developing an annual legislative report; and, publishing an independent evaluation.

Staff notes unknown costs due to increased Medi-Cal utilization rates by individuals referred to the CARE court program, who otherwise may not have been an existing beneficiary. In addition, staff notes unknown, significant ongoing costs for specified supportive services, which could range in the tens of millions. In addition, unknown

but potentially significant cost-avoidance and long-term savings to state public health systems and public health to the extent that peer support services provide support and assistance to Medi-Cal beneficiaries with mental illness and reduce the need for more expensive downstream services, such as inpatient hospitalizations or incarceration.

- Department of Social Services (CDSS). Staff notes unknown, significant cost pressures (possibly high tens of millions, General Fund, federal fund) related to the anticipated increased utilization of certain programs identified in the bill, such as the CalWORKS Housing Support Program, SSI/SSP, Cash Assistance Program for immigrants, CalWORKs, and CalFresh, , and Homeless Housing Assistance and Prevention. These costs would be in the form of local assistance, as county welfare departments conduct eligibility, redetermination, and screening for programs. In addition, while the bill would be implemented on a county-level, staff estimates state operations workload for CDSS to provide technical assistance, program monitoring, and to issue new or updated guidance or all county letters to implement the bill.
- Department of Aging (CDA). According to the CDA, \$1.155 million for 10.0 positions and \$8.845 million for CARE supporters in Fiscal Year 2022-23 and ongoing (General Fund). CDA reports that it will utilize these requested resources to establish the Community Awareness, Recovery, and Empowerment Supporter program including targeted recruitment, outreach, training, and oversight.\*
- Department of Managed Health Care (DMHC). Staff estimates indeterminate costs for the department to possibly promulgate regulations, conduct plan oversight and compliance and monitoring, as well as answer technical questions through the Help Center. The bill's provisions would not include specified Medi-Cal managed care contracts.
- Department of Insurance (CDI). CDI reports costs of \$17,000 in FY 2022-23 and \$12,000 FY 2023-24.
- California Health and Human Services Agency (CHHSA). According to CHHSA, no fiscal impact.
- CalVet. Staff estimates indeterminate, unknown costs to CalVet (hundreds of thousands, low millions, General Fund) to conduct outreach and coordinate with the CARE plan team related to specified programs identified in the bill, like the Veterans Support to Self-Reliance, the federal Department of Veterans Affairs Supportive Services for Veteran Families program, and Veteran Affairs Supportive Housing voucher program. Currently, the Veterans Support to Self-Reliance is a pilot program that provides a higher level of on-site supportive services for veterans aged 55 and over who reside in permanent supportive housing. To the extent there is pressure to make the program permanent and with possible increased program utilization, staff notes this would be an indeterminate cost pressures to the General Fund.
- Housing. Staff estimates unknown direct costs, as well as ongoing cost pressures, to the General Fund (high tens of millions to hundreds of millions), as the bill would increase utilization of the specified housing programs. Staff anticipates increased

use, and demand, of the Bridge Housing program, HOME Investment Partnership Program, HUD Continuum of Care program, and emergency housing vouchers, among other programs identified in the bill. In addition, as the bill reprioritizes CARE plan program participants in the Behavioral Health Bridge Housing program, it does not increase the funding for any of the programs at this time. The demand is unknown at this time, but staff notes that housing affordability is a statewide challenge, and housing stock, including specialty treatment beds, are limited and in challenged supply.

**Author Amendments:** The author's amendments:

Care Process.

- Amend the criteria for admission to CARE proceedings to:
  - Require the person to have severe mental illness, as defined;
  - The person's impaired insight or judgment must present a risk to their health and safety, or, the person must be in need of services and support in order to prevent a relapse or deterioration that would be likely to result in grave disability or serious harm to the person or to others.
  - Participation in CARE court must be the least restrictive alternative necessary to ensure the person's recovery and stability and it must be likely that the person will benefit from CARE court.
- Include the following as persons who may file a petition to initiate CARE proceedings:
  - An adult sibling, a grandparent, or other adult who stands in loco parentis to the respondent.
  - Specified public safety workers, but only after repeated interactions with the respondent, as specified.
  - The director of a California Indian health services program, California tribal behavioral health department, or their designee, a judge of a tribal court that is located in California, or their designee, or a prosecuting attorney, as specified.
- Provide that CARE proceedings are presumptively closed to the public.
- Authorizes the petitioner and the respondent to present evidence and call witnesses at the evaluation hearing. Only relevant and admissible evidence that fully complies with the rules of evidence may be considered by the court.
- Provide that a CARE plan shall be developed by the respondent, their CARE supporter and counsel, and the county behavioral health agency. If the proposed CARE plan includes services and supports, such as housing that local entity may be added as a party to the CARE proceeding, as specified.
- Provide that the county behavioral health agency or the respondent, or both, may present a proposed CARE plan.

- Provide that after reviewing the CARE plan and hearing from the parties, the court may issue any orders necessary to support the respondent in accessing appropriate services and supports.
- Provide that upon completion of the CARE program, a respondent may only be reappointed to the CARE program once, for one year.
- Provide that a respondent may be involuntarily reappointed to the program only if all of the following conditions apply:
  - The respondent did not successfully complete the program;
  - All services and supports from the CARE plan were provided; and,
  - The court finds the respondent qualifies for the CARE program by clear and convincing evidence.

#### Department of Insurance.

- Require an insurance policy issued, amended, renewed, or delivered on or after July 1, 2023, to cover the cost of developing a specified evaluation.
- Prohibit an insurer from requiring prior authorization for services provided under a CARE agreement or CARE plan, as specified, and prohibit those services be subject to any copayment, coinsurance, deductible, or other form of cost-sharing;
- Require an insurer provide reimbursement for services, as specified; and,
- Authorize, by July 1, 2023, the Insurance Commissioner to issue guidance to implement the bill.

#### Clinical Evaluation Review Hearing.

- Require the county behavioral health agency to use its best efforts to consult with and incorporate the Indian health provider, Tribal Behavioral Health department, or tribal court, if the CARE respondent is an American Indian/Alaska Native, or has been determined eligible as an Indian, as specified, if the court finds other relevant and admissible evidence that the respondent meets the CARE criteria.

#### Care Plan.

- Authorize the CARE plan to only include behavioral health services, as specified; housing resources, as specified; social services, as specified; and county aid and relief to indigent persons, as specified;
- Provide all CARE plan services and supports ordered by the court are subject to applicable statutes and regulations related to eligibility and funding.

#### Training.

- Require DHCS, subject to appropriation, and in consultation with specified entities, to provide training to counsel regarding CARE statute, services, and supports.

Reporting Requirements.

- Require DHCS to develop, in consultation with specified entities, an annual CARE Act report, which must be posted on its internet website.
- Require county behavioral health agencies and other state or local government to provide specified data to the DHCS, in a format and frequency directed by the department.
- Authorize DHCS to implement the bill through plan letters, notices, provider bulletins, or other instructions without regulatory action.
- Require DHCS to provide information on populations served and specified demographic data, to the extent data is available.
- Require the report to include information on the effectiveness of the CARE Act model, as specified, and require the outcomes to be presented to relevant state oversight bodies.

Evaluation.

- Require DHCS to develop, in consultation with specified entities, an independent evaluation on the effectiveness of the CARE Act.
- Require DHCS to provide a preliminary legislative report three years after the implementation date of the CARE Act and a final report to the Legislature five years after the implementation date of the CARE Act.
- Require DHCS to post the preliminary and final reports on its internet website.

-- END --