SENATE THIRD READING
SB 27 (Umberg)
As Amended September 02, 2025
Majority Vote

SUMMARY

Proposes a number of changes to the still newly implemented Community Assistance, Recovery, and Empowerment (CARE) Act to modify the process (including how respondents are referred, determined by the CARE Act court to be eligible for participation, and graduated from the program) and eligibility criteria for the program.

Major Provisions

1) Provides that if a defendant is found mentally incompetent to stand trial in a misdemeanor case, the trial, judgment, or hearing on the alleged violation shall be suspended and the court shall, after notice to the defendant, defense counsel, and the prosecution, hold a hearing to determine whether, to do one or more of the following:

    a) Conduct a hearing to determine if the defendant is ″eligible and suitable″ for diversion and in that case, grant diversion 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) Refer the defendant to the CARE Act court, if the court has reason to believe that the defendant may be eligible for the CARE program.

2) Provides that if a defendant is found mentally incompetent to stand trial in a misdemeanor case but ineligible ″or unsuitable″ for diversion, the court may refer the defendant to CARE, in which case specified conditititions would apply.

3) Allows the county behavioral health agency and jail medical providers to share confidential medical records and other relevant information with the court, including, but not limited to, prior interactions with and treatment of the defendant, for the purpose of determining likelihood of eligibility for behavioral health services and programs pursuant to this section; but clarifies that the disclosure of information is subject to applicable state and federal privacy laws.

4) Defines ″clinically stabilized in ongoing voluntary treatment″ (for purposes of the requirement that to qualify for CARE, a person must have a prerequisite mental condition and *not* be clinically stabilized in ongoing voluntary treament) to mean both of the following:

    a) The person′s condition is stable and not deteriorating.

    b) The person is likely to survive safely in the community without supervision; but enrollment in treatment alone shall not be considered clinically stabilized in ongoing voluntary treatment.

5) Modifies the criteria to qualify for CARE (limited to schizophrenia spectrum and other psychotic disorders under current law) to include ″bipolar I disorder with psychotic features, except psychosis related to current intoxication.″

6) Clarifies that a court may make a prima facie determination as to a respondent′s CARE eligibility without holding a separate hearing.

7) Allows a CARE court in its discretion, to call additional progress hearings beyond the hearing set at 60 days, for the duration of the CARE agreement.

8) Requires that if the respondent has successfully completed the CARE process, the court shall order the preparation of a voluntary graduation plan.

9) Allows a court to refer an individual from Assisted Outpatient Therapy (AOT) or Lanterman-Petris-Short (LPS) conservatorship or in a proceeding finding them to be incompetent to stand trial for a misdemeanor, or incompetent to stand trial for a felony, to CARE Act court.

10) Provides that the CARE Act court may consider a referral made pursuant to 9) to be a CARE Act petition if it contained all of the information required by law to be included in a CARE Act petition.

11) Requires, if the CARE Act court elects to consider a referral to be a petition pursuant to 9), the CARE Act court to notify the referring court that the referral has been accepted as a petition for CARE Act proceedings and to take other actions in the event that the referral were not accepted.

COMMENTS

Senate Bill 1338 (Umberg), Chapter 319, Statutes of 2022, established the Community Assistance, Recovery, and Empowerment (CARE) Act, which provides community-based behavioral health services and supports by means of a civil court process to Californians living with untreated schizophrenia spectrum or other psychotic disorders who meet certain health and safety conditions. The CARE Act is intended to serve as an upstream intervention for individuals experiencing severe impairment to prevent more restrictive alternatives, including psychiatric hospitalizations, incarceration, Assisted Outpatient Therapy (AOT), and Lanterman-Petris-Short (LPS) conservatorship. This bill is the latest in a series of annual bills to modify the CARE Act which has been in effect statewide since December 1, 2024. The bill proposes a number of changes to the CARE Act, modifying not only the *process* (including how respondents are referred to, determined to be eligible for participation, and graduated from the program), but also the *criteria* for program eligibility.

Background – CARE Proceedings. A central feature of the CARE Act are ″CARE Courts,″ intended to deliver mental health and substance use disorder (SUD) services as an alternative to incarceration in a jail or psychiatric facility of a person with schizophrenia or another psychotic disorder, or to that person becoming subject to an LPS conservatorship. The CARE Act provides for court-ordered CARE Plans for persons suffering from a mental health or SUD crisis for up to 12 months, with possible extensions. The plan is supposed to provide individuals with clinically appropriate, community-based services. These might include court-ordered stabilization medications, wellness and recovery support, help with finding social services and housing. ″Court-ordered stabilization medication″ is distinct from involuntary medication in that it cannot

be forcibly administered. However, failure of a person to voluntarily participate in the medication treatment could lead to their referral to an LPS conservatorship, which critics say is coercive.

Since its inception, a central premise of the CARE Act is to focus on the most severely mentally ill, including those with schizophrenia and other psychotic disorders, in a collaborative and voluntary manner. While the overall purpose of the CARE Act is to provide essential services to the most severely ill, it also is supposed to preserve self-determination to the greatest extent possible. The California Health and Human Services Agency describes CARE Court as ″an upstream diversion to prevent more restrictive conservatorships or incarceration.″ (″CARE Court FAQ,″ at chhs.ca.gov.) The program is designed and intended to be voluntary and collaborative. Unlike the courts in AOT and LPS proceedings, CARE Act courts do not have the authority to order a respondent in CARE proceedings to be medicated over their objection.

Critics point out that CARE is expensive, especially in light of the small number of participants it serves. According to a November 2024 report by the California Department of Health Care Services about the first 9 months of the program′s implementation in the 8 early implementation counties and Los Angeles (which opted to begin the CARE program early, despite not being identified in statute as an early implementing county), found the following (with preliminary data from Q3 of 2024 and preliminary yearly totals included in brackets):

> 557 petitions filed in the state [+231 = 788]
> 217 petitions dismissed
> 100 participants were in the program
> 362 individuals ″diverted″ from CARE Court to services.
> (CARE Early Implementation Report, pp. 6-9, available at
> https://www.dhcs.ca.gov/Documents/CARE-Early-Implementation-Report-10-31.pdf.)

Meanwhile, during that same period (FY 2023-24), the state allocated $38.1 million to the courts and $33.3 million to the California Health and Human Services Agency (CalHHS) and Department of Health Care Services (DHCS) (for data collection, county grants, and other activities), for a total of $71.3 million. (LAO (September 10, 2024) The 2024-25 California Spending Plan: Judiciary and Criminal Justice, available at https://lao.ca.gov/Publications/Report/4924.) Divided by the 100 CARE Act participants, the cost of CARE court during FY 2023-24 was $713,000 per participant. Future participation may increase (especially if the criteria for eligibility is greatly expanded, as proposed by this bill), but costs also are likely to increase over time. Supporters of the CARE Act point out that many persons who do not qualify for, or who opt out of participation in CARE, are diverted to other services. But regardless of its effectiveness in directing individuals to services—as participants, or individuals who are diverted elsewhere- the CARE model ends up being a very expensive way to coordinate (but not directly provide) important services.

This bill makes several significant changes to CARE Act court procedures, as well as the procedures for other courts to refer individuals to a CARE Act court, that are in the jurisdiction of this Committee.

First, the bill amends Penal Code Section 1370.01, regarding defendants who are found incompetent to stand trial and allowing them to be referred to a CARE Act court in lieu of automatic diversion from the criminal proceedings.

Second, in perhaps the most substantive change to the CARE Act of the bill, the bill proposes to change the mental health criteria for CARE Act eligibility, making persons with ″bipolar I disorder with psychotic features, except psychosis related to current intoxication″ eligible for the program.

Third, the bill clarifies that a separate hearing is not necessary to determine prima facie evidence of eligibility.

Fourth, the bill clarifies that the court ″may, in its discretion, call additional progress hearings beyond the hearing set at 60 days, for the duration of the CARE agreement.″

Fifth, the bill provides that a court may refer an individual who has been found incompetent to stand trial from both misdemeanor proceedings, or from felony proceedings to the CARE Act court and that the CARE Act court may consider such a referral made by the criminal court to substitute for a petition under the CARE Act if the referral includes all of the information that is required to be provided in a CARE Act petition.

According to the Author

> In 2023, CARE Court began as a pilot program in eight counties -- San Francisco, Glenn, Tuolumne, Stanislaus, Orange, Riverside, San Diego, and Los Angeles County. CARE Court is now an active program in all 58 counties as of December 2024. The pilot has revealed that creating a tailored voluntary treatment plan often takes many months to create and implement. Meanwhile, the respondents in CARE Court can suffer from these delays. SB 27 is designed to further refine the CARE Court processes by implementing changes, including but not limited to combing court hearings and expanding CARE eligibility.

Arguments in Support

Families Advocating for the Seriously Mentally Ill (FASMI), which describes itself as a group of family members of the seriously mentally ill and health care providers, writes:

> SB 27 provides a reasonable schedule for getting people, including people in the justice system who have been found incompetent to stand trial, into CARE Court if the court finds that appropriate. It clarifies that a person who already has some kind of case management is still eligible for CARE court if they are not clinically stable. It provides for a reasonable exit from CARE Court by letting a judge continue to review the results of a program after 60 days.
>
> . We hope you move SB 27 forward without damaging amendments from patients' rights advocates. These advocates do not speak for our family members who are deteriorating and in danger, the people CARE Court was designed to help.

Arguments in Opposition

A coalition of civil rights groups and disability advocates writes that they are opposed to SB 27 because of its vast expansion of CARE Act eligibility, especially given its inherently coercive elements:

> CARE Court threatens an individual′s fundamental rights to privacy, autonomy, and liberty. Under the CARE Court program, individuals can be subject to court-ordered CARE plans or court-overseen CARE agreements. Court-ordered CARE plans bind a respondent to comply with specific behavioral health services that are not the respondent′s choice and to which they

may actively object. This directly impinges on their autonomy privacy right to make medical decisions about their own bodies and minds. Even though CARE agreements are purported to be voluntary, there are significant concerns about coercion, because an individual is subject to a CARE plan if a CARE agreement is not agreed to, and the judge may still make changes to the CARE agreement before final approval. SB 27 would expand court oversight of CARE agreements by allowing courts to call for status hearings beyond 60 days, increasing the coerciveness and cost. SB 27 would exacerbate CARE Court′s many problematic features by significantly expanding the program.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

1) Cost pressures to the courts (Trial Court Trust Fund (TCTF), General Fund (GF)) of an unknown but significant amount, possibly in the millions to tens of millions of dollars, to adjudicate petitions for the population made eligible for the CARE program by this bill and handle IST referrals between criminal and CARE courts. The bill streamlines some CARE court processes which may help offset these cost pressures to some extent. It generally costs approximately $1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the TCTF may create a demand for increased funding for courts from the GF. The fiscal year 2025-26 state budget provides $82 million ongoing GF to the TCTF for court operations.

2) Costs to the counties (local funds, GF), likely in the tens of millions of dollars or higher annually, to serve the population made eligible for the CARE program by this bill, handle additional IST referrals, and participate in required court processes. The County Behavioral Health Directors Association (CBHDA), which opposes this bill, anticipates these costs will be between $78 million and $121 million annually ongoing to county health agencies, largely depending on the number of CARE respondents with bipolar I disorder with psychotic features and the number of additional IST referrals to the CARE program. The state must reimburse these county costs from the GF if the Commission on State Mandates determines the duties imposed by this bill constitute a reimbursable state mandate.

3) Costs (GF, federal funds (FF)) to Department of Health Care Services (DHCS). DHCS anticipates one-time costs of $4 million in fiscal year (FY) 2026-27 to contract to update its training materials and develop and provide new training and technical assistance for counties, courts, and CARE respondents′ counsel. DHCA also anticipates needing two full-time, permanent positions for data collection, oversight activities, and quality assurance, at a cost of $317,000 ($159,000 GF and $158,000 FF) in FY 2026-27 and $299,000 ($150,000 GF and $149,000 FF) in FY 2027-28 and ongoing. DHCS reports any shortfall in federal funds would have to be made up from the GF.

4) Costs (GF) of an unknown but potentially significant amount to California Health and Human Services Agency (CalHHS) to expand its existing activities to cover the population made eligible for the CARE program by this bill.

VOTES

SENATE FLOOR: 39-0-1
YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
ABS, ABST OR NV: Reyes

ASM JUDICIARY: 11-0-1
YES: Kalra, Dixon, Bauer-Kahan, Connolly, Harabedian, Macedo, Pacheco, Papan, Sanchez, Stefani, Zbur
ABS, ABST OR NV: Bryan

ASM HEALTH: 16-0-0
YES: Bonta, Chen, Addis, Aguiar-Curry, Caloza, Rogers, Flora, Mark González, Elhawary, Patel, Ellis, Celeste Rodriguez, Sanchez, Schiavo, Sharp-Collins, Stefani

ASM PUBLIC SAFETY: 9-0-0
YES: Schultz, Alanis, Mark González, Haney, Harabedian, Lackey, Nguyen, Ramos, Sharp-Collins

ASM APPROPRIATIONS: 11-0-4
YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache
ABS, ABST OR NV: Sanchez, Dixon, Ta, Tangipa

UPDATED

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CONSULTANT: Alison Merrilees / JUD. / (916) 319-2334 FN: 0001359