
UNFINISHED BUSINESS

Bill No: SB 27
Author: Umberg (D)
Amended: 9/2/25 in Assembly
Vote: 21

Prior votes not relevant, pursuant to Senate rule 29.10.

ASSEMBLY FLOOR: 74-0, 9/11/25 - See last page for vote

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

SOURCE: Author

DIGEST: This bill makes changes to the Community Assistance, Recovery, and Empowerment (CARE) Act including program eligibility and how respondents are referred, among other changes.

Assembly Amendments of 9/2/25 make numerous changes to Penal (Pen.) Code provision dealing with diversion from criminal proceedings of persons who are found incompetent to stand trial and referred to a CARE Act court; expand the mental health criteria for a person to be eligible for participation in the CARE program to include bipolar disorder; and include a nurse practitioner and physician assistant as a licensed behavioral health professional for purposes of individuals authorized to prepare an affidavit supporting a CARE process petition, among other significant expansions of the bill.

ANALYSIS:

Existing Law:

- 1) Provides that a person shall not be tried or adjudged to punishment while mentally incompetent. (Pen. Code, § 1367, subd. (a).)
- 2) States that a defendant is incompetent to stand trial (IST) if, as a result of a mental health disorder or developmental disability, they cannot understand the

nature of the criminal proceedings or assist counsel in their defense in a rational manner. (Pen. Code, § 1367, subd. (a).)

- 3) Specifies procedures for inquiring into and determining mental competence, including suspending criminal proceedings, as specified. (Pen. Code, § 1368, subd. (b) & (c).)
- 4) Requires, if the defendant is found mentally competent, the criminal process to resume, and the trial on the offense charges to proceed. (Pen. Code, §§ 1370; 1370.01.)
- 5) Establishes the procedures for the treatment of individuals found IST and charged with a misdemeanor, as follows:
 - a) The trial, judgment, or hearing on the alleged misdemeanor is suspended and the court must conduct a hearing on whether the defendant is eligible for mental health diversion;
 - b) If the court finds that the defendant is not eligible for diversion, the court must hold a hearing to determine which of the following actions to take:
 - i) Order modification of an existing mental health diversion treatment plan in accordance with a recommendation from a treatment provider;
 - ii) Refer the defendant to outpatient treatment;
 - iii) Refer defendant for possible conservatorship proceedings;
 - iv) Refer the defendant to the CARE program; or,
 - v) Dismiss the charges if the defendant does not qualify for these services; and,
 - vi) If the misdemeanor charges are dismissed, and the individual is not receiving the above-described services, the court must notify the defendant of their need for mental health services. The court shall additionally provide the individual with contact information of specified mental health services. (Pen. Code, §§ 1370.01, 1370.2; Welf. & Inst. Code, § 5623.6, subd. (b); Cal. Rules of Court, rule 4.130, subds. (f)(1) & (3).)
- 6) States the Legislature's intent that the court consider all treatment options, as provided, prior to dismissing criminal charges, but allows the court to dismiss any misdemeanor charges pending against a defendant found IST in the interests of justice. (Pen. Code, §§ 1370.01, subd. (e), 1385.)

- 7) States the Legislature's intent that a defendant subject to the misdemeanor IST procedures receive mental health treatment in a treatment facility and not a jail. (Pen. Code, § 1370.01, subd. (c).)
- 8) Allows the court to dismiss any misdemeanor charges pending against a defendant found IST. (Pen. Code, § 1370.2.)
- 9) Requires the court to dismiss the criminal charges at the end of the diversion period if the individual performs satisfactorily on diversion. (Pen. Code, § 1370.01, subd. (e).)
- 10) Establishes mental health diversion for misdemeanor and felony offenses and sets forth eligibility requirements. (Pen. Code, §§ 1001.35 & 1001.36.)
- 11) Establishes the CARE Act, which must be implemented as specified. (Welf. & Inst. Code, § 5970 et seq.)
- 12) Provides that a respondent may 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, 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. Specifically exempts specified other conditions or disorders.
 - c) The person is not clinically stabilized in on-going voluntary treatment.
 - d) At least one of the following is true:
 - i) The person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating.
 - ii) 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 to others.

- e) Participation in a CARE plan or 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 agreement. (Welfare (Welf.) & Institutions (Inst.) Code, § 5972.)
- 13) Allows a petition to initiate a CARE proceeding to be brought by one of the following adults:
- a) A person with whom the respondent resides or a spouse, parent, sibling, child, or grandparent of the respondent, or another individual who stands in loco parentis to the respondent.
 - b) The director of a hospital, or their designee, in which the respondent is hospitalized, or the director of a public or charitable organization, agency, or home, or their designee, that is currently, or within the previous 30 days, providing behavioral health services to the respondent or in whose institution the respondent resides.
 - c) A licensed behavioral health professional, or their designee, who is treating, or has been treating within the last 30 days, the respondent for a mental illness.
 - d) 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, as provided, multiple attempts to engage the respondent in voluntary treatment or other repeated efforts to aid the respondent in obtaining professional assistance.
 - e) The public guardian or public conservator, or their designee (and a respondent may be referred from conservatorship proceedings).
 - f) The director of a county behavioral health agency of the county in which the respondent resides or is present (and a respondent may be referred from assisted outpatient treatment proceedings).
 - g) The director of the county Adult Protective Services or their designee.

- h) The director of a California Indian health services program, California tribal behavioral health department, or their designee.
 - i) The judge of a tribal court that is located in California, or their designee.
 - j) The respondent. (Welf. & Inst. Code, § 5974.)
- 14) Requires the Judicial Council to develop a mandatory form for use to file a CARE process petition with the court and any other forms necessary for the CARE process; and request the petition to be signed under the penalty of perjury and contain specified information, including one of the following:
- a) 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.
 - b) 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. Evidence may include, but is not limited to, documentary evidence from the facility where the respondent was detained, or a signed declaration from the petitioner if the petitioner had personal knowledge of the detentions. (Welf. & Inst. Code, § 5975.)
- 15) Sets out the respondent's rights, including the right to be represented by counsel at all stages of a CARE proceeding, and requires the court to appoint specified counsel if the respondent does not have their own attorney. (Welf. & Inst. Code, § 5976.)
- 16) Provides that all CARE Act hearings are presumptively closed to the public. Allows the respondent to demand that the hearings be public or request the presence of a family member or friend without waiving their right to keep the hearing closed to the general public. A request by another party to make a hearing public may be granted if the court finds that the public interest clearly

outweighs the respondent's privacy interest. (Welf. & Inst. Code, § 5976.5.)

- 17) Requires, for all CARE Act proceedings, that the judge control all 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 where there is a contested issue of fact or law, requires the proceedings to be conducted in an informal, non-adversarial 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. (Welf. & Inst. Code, § 5977.4, subd. (a).)
- 18) Requires the court, upon receipt of a CARE Act petition, to promptly review the petition to see if it makes a prima facie showing that the respondent is or may be a person eligible for services under the CARE Act. (Welf. & Inst. Code, § 5977, subd. (a)(1).)
- 19) Provides that, if the court finds the petitioner has not made a prima facie showing that the respondent is or may be a person who is eligible for services under the CARE Act, the court shall dismiss without prejudice, except if the court finds that the petition is without merit, or intended to harass the respondent. Allows a petition to be refiled with new information. (Welf. & Inst. Code, § 5977, subd. (a)(2).)
- 20) Provides that, if the court finds the petitioner has made a prima facie showing that the respondent is or may be a person who is eligible for services under the CARE Act, and the petitioner is the county behavioral health agency, the court shall do all of the following: (i) set the matter for an initial appearance; (ii) appoint counsel; (iii) determine if the petition includes all the required information and, if not, order the county to submit a report with the information; and (iv) require notice be provided. (Welf. & Inst. Code, § 5977, subd. (a)(3)(A).)
- 21) Provides that, if the court finds the petitioner has made a prima facie showing that the respondent is or may be a person who is eligible for services under the CARE Act, and the petitioner is not the county behavioral health agency, the court shall order the county agency to investigate whether the respondent meets the eligibility criteria of the CARE Act and is willing to engage voluntarily with the county, file a written report with the court, and provide notice, as required

by the Act. (Welf. & Inst. Code, § 5977, subd. (a)(3)(B).)

- 22) Provides that if the county agency is making progress to engage the respondent, the agency may request up to an additional 30 days to continue to engage and enroll the individual in treatment and services. (Welf. & Inst. Code, § 5977, subd. (a)(4).)
- 23) Requires, within five days of the receipt of the investigative report described above, the court to review the report and do one of the following:
 - a) If the court determines that voluntary engagement with the respondent is effective, as provided, requires the court to dismiss the matter.
 - b) If the court determines that the county's report supports the petition's prima facie showing that the respondent meets the CARE criteria, and engagement is not effective, requires the court to: (i) set an initial hearing within 14 days; (ii) appoint counsel, unless the respondent has their own counsel; and (iii) provide notice of the hearing, as provided.
 - c) If the court determines that the county's report does not support the petition's prima facie showing that the respondent meets the CARE criteria, requires the court to dismiss the matter. (Welf. & Inst. Code, § 5977, subd. (a)(5).)
- 24) Provides that at the initial hearing:
 - a) If the petitioner is not present, allows the court to dismiss the matter.
 - b) If the respondent elects not to waive their appearance and is not present, allows the court to conduct the hearing in the respondent's absence if the court makes a finding on the record that reasonable attempts to elicit the attendance of the respondent have failed, and conducting the hearing without the participation or presence of the respondent would be in the respondent's best interest.
 - c) Requires a county behavioral health agency representative to be present, allows a supporter to be appointed, and allows a tribal representative to attend for a respondent who is a tribal member, as provided, and subject to the respondent's consent.

- d) If the court finds that there is no reason to believe that the facts stated in the petition are true, requires the court to dismiss the case without prejudice, unless the court makes a finding on the record that the petitioner's filing was not in good faith.
- e) If the court finds that there is reason to believe that the facts stated in the petition appear to be true, requires the court to order the county behavioral health agency to work with the respondent and the respondent's counsel and CARE supporter to engage in behavioral health treatment. Requires the court to set a case management hearing within 14 days.
- f) If the petitioner is other than the county behavioral health director, substitutes the county behavioral health director or their designee for the petitioner, as specified.
- g) Requires the court to set a hearing on the merits of the petition, which may be conducted concurrently with the initial appearance on the petition upon stipulation of the petitioner and respondent and agreement by the court. (Welf. & Inst. Code, § 5977, subd. (b).)

25) Provides that at the hearing on the merits:

- a) If the court finds that the petitioner has not shown, by clear and convincing evidence, that the respondent meets the CARE criteria, requires the court to dismiss the case without prejudice, unless the court makes a finding, on the record that the petitioner's filing was not in good faith.
- b) If the court finds that the petitioner has shown by clear and convincing evidence that the respondent meets the CARE criteria, requires the court to 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. Requires the court to set a case management hearing. Requires notice to the tribe, if applicable. (Welf. & Inst. Code, § 5977, subd. (c).)

26) Provides that at the case management hearing:

- a) If the parties have entered, or are likely to enter, a CARE agreement, requires the court to approve or modify and approve the CARE agreement,

stay the matter, and set a progress hearing for 60 days.

- b) If the court finds that the parties have not entered, and are not likely to enter, into a CARE agreement, requires the court to order a clinical evaluation of the respondent, as provided. Requires the evaluation to address, at a minimum, a clinical diagnosis, whether the respondent has capacity to give informed consent regarding psychotropic medication, other information, as provided, and an analysis of recommended services, programs, housing, medications, and interventions that support the respondent's recovery and stability.
- c) Requires the court to set a clinical evaluation hearing. (Welf. & Inst. Code, § 5977.1.)

27) Provides that at the clinical evaluation review hearing:

- a) The court shall consider the evaluation, and other evidence, including calling witnesses, but only relevant and admissible evidence that fully complies with the rules of evidence may be considered by the court.
- b) If the court finds, by clear and convincing evidence, after review of the evaluation and other evidence, that the respondent meets the CARE criteria, requires the court to order the county behavioral health agency, the respondent, and the respondent's counsel and supporter to jointly develop a CARE plan.
- c) If the court finds, in reviewing the evaluation, that clear and convincing evidence does not support that the respondent meets the CARE criteria, requires the court to dismiss the petition. (Welf. & Inst. Code, § 5977.1, subd. (c).)

28) Provides at the hearing to review the proposed CARE plan:

- a) The parties shall present their plan or plans to the court. (Welf. & Inst. Code, § 5977.1, subd. (d)(1).)
- b) The court shall adopt the elements of a CARE plan that support the recovery and stability of the respondent. Allows the court to 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, as provided. These orders are the CARE plan. (*Id.* at (d)(2).)

- c) 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 that the court orders medically necessary stabilization medications, prohibits the medication from being forcibly administered and the respondent's failure to comply with a medication order may not result in a penalty, including but not limited to a court order of contempt or imposition of accountability measures. (*Id.* at (d)(3).)
- 29) Specifies that the above provisions do not prohibit the parties from agreeing to, and the court from approving, amendments to the CARE plan. The court may also approve amendments to the CARE plan upon the finding that those amendments are necessary to support the respondent in accessing appropriate services and supports, following a hearing on the issue. (Welf. & Inst. Code, § 5977.1, subd. (d)(7).)
- 30) Requires that a status review hearing occur at least every 60 days during the CARE plan implementation. (Welf. & Inst. Code, § 5977.2, subd. (a)(1).)
- 31) Requires the behavioral health agency to file with the court, and serve on the respondent and the respondent's counsel and supporter, a report not less than five court days prior to the hearing, with specified information, including progress the respondent has made on the CARE plan, what services and supports in the CARE plan were provided, and what services and supports were not provided, and any recommendations for changes to the services and supports to make the CARE plan more successful. (Welf. & Inst. Code, § 5977.2, subd. (a)(1).)
- 32) Allows the petitioner, the respondent, or the court to request more frequent reviews as necessary to address changed circumstances. (Welf. & Inst. Code, § 5977.2, subd. (a)(1)(A) – (b).)
- 33) Requires the court, in the 11th month, to hold a one-year status hearing, which is an evidentiary hearing, to determine if the respondent graduates from the CARE plan or should be reappointed for another year. (Welf. & Inst. Code, §

5977.3, subd. (a).)

- 34) Requires a report by the behavioral health agency before the status conference, as provided. (Welf. & Inst. Code, § 5977.3, subd. (a)(1).)
- 35) Allows the respondent to call witnesses and present evidence at the one-year status hearing and respondent may request to either graduate from the program or remain in the program. (Welf. & Inst. Code, § 5977.3, subd. (a)(2).)
- 36) Requires the court to issue an order as follows:
 - a) If the respondent elects to graduate from the program, the court shall order the county behavioral health agency and the respondent to work jointly on a voluntary graduation plan, as specified.
 - b) If the respondent elects to accept voluntary reappointment to the program, the respondent may request to be re-appointed to the CARE program for up to one additional year, subject to meeting certain criteria and court approval. (Welf. & Inst. Code, § 5977.3, subd. (a)(3).)
- 37) Allows the court to involuntarily reappoint the respondent to the CARE program for up to one year if the court finds, by clear and convincing evidence, that (i) the respondent did not successfully complete the CARE process; (ii) all of the required services and supports were provided to the respondent; (iii) the respondent would benefit from continuation of the CARE process; and (iv) the respondent currently meets the requirements for initial enrollment in the CARE program. (Welf. & Inst. Code, § 5977.3, subd. (b).)
- 38) Allows the court, at any point in the proceedings, if it determines, by clear and convincing evidence, that the respondent, after receiving notice, is not participating in the CARE proceedings, to terminate respondent's participation in the CARE process. Allows the court to make a referral under the Lanterman-Petris-Short (LPS) Act, as provided. (Welf. & Inst. Code, § 5979, subd. (a).)

This bill:

- 1) Provides that if a defendant is found mentally incompetent to stand trial (IST) 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 mental health diversion, as specified; or,
 - b) Refer the defendant to the CARE Act court, if the defendant or counsel for the defendant agrees to the referral and the court has reason to believe that the defendant may be eligible for the CARE program.
- 2) Requires, if the defendant is referred to CARE court, the court to hold a hearing to determine eligibility for the CARE program within 30 court days after the date of the referral.
 - 3) Provides that if the hearing is delayed beyond 30 court days, the court shall order the defendant, if confined in a county jail, to be released on their own recognizance pending that hearing.
 - 4) Provides that if the defendant is accepted into the CARE program, the CARE court shall notify the criminal court of the acceptance, and the charges shall be dismissed six months after the date of the referral to the CARE program, unless the defendant's case has been referred back to the court prior to the expiration of that six-month time period.
 - 5) States that, except as provided in the proceedings related to an investigation of a defendant's eligibility for CARE services or in proceedings related to Assisted Outpatient Treatment (AOT), the above provisions do not alter the confidential nature of CARE program proceedings.
 - 6) States that if the defendant is not accepted into the CARE program or if the CARE Act court refers the defendant back to criminal court before the expiration of the six-month time period, the court shall proceed with consideration for mental health diversion.
 - 7) Provides that if a defendant is found IST in a misdemeanor case but ineligible "or unsuitable" for diversion, the court may refer the defendant to CARE, in which case all of the following would apply:
 - a) The CARE Act court shall hold a hearing to determine eligibility for the CARE program within 14 court days after the date of the referral.

- b) If the hearing is delayed beyond 14 court days, the court shall order the defendant, if confined in a county jail, to be released on their own recognizance pending that hearing. If the defendant is accepted into the CARE program, the CARE Act court shall notify the criminal court of the acceptance, and the charges shall be dismissed pursuant to Section 1385 six months after the date of the referral to the CARE program, unless the defendant's case has been referred back to the court prior to the expiration of that time period.
 - c) Except as provided in the proceedings related to an investigation of a defendant's eligibility for CARE services or in proceedings related to AOT, the above provisions do not alter the confidential nature of CARE program proceedings.
- 8) 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.
- 9) 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 treatment) to mean all of the following:
- a) The person's condition is stable and not deteriorating.
 - b) The person is currently engaged in treatment and managing symptoms through medication or other therapeutic interventions. Enrollment in treatment alone shall not be considered clinically stabilized in ongoing voluntary treatment.
- 10) Expands the criteria to qualify under the CARE Act, which is currently limited to schizophrenia spectrum and other psychotic disorders, to also include "bipolar I disorder with psychotic features, except psychosis related to current intoxication."
- 11) Modifies "affidavit of a licensed behavioral health professional" to include, for purposes of existing law specifying the information required in the petition,

nurse practitioners and physician assistants.

- 12) States that the court may make a prima facie determination without conducting a hearing.
- 13) 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.
- 14) Requires that in order to be “graduated” from the CARE program, the court must approve the eligible participant’s request.
- 15) Allows a court to refer an individual from AOT or LPS or in a proceeding finding them to be IST for a misdemeanor, or IST for a felony, to CARE court.
- 16) Provides that, in considering appropriateness of the referral, the CARE court may consider a referral made pursuant to this section to be a petition satisfying the requirements of the CARE Act if both of the following conditions are met:
 - a) The referral contains information sufficient to otherwise satisfy the petition requirements of the CARE Act.
 - b) The information included in the referral makes a prima facie showing that the respondent is, or may be, a person described as qualifying for CARE.
- 17) Requires, if the CARE court elects to consider a referral to be a petition, the CARE court to notify the referring court that the referral has been accepted as a petition for CARE proceedings.
- 18) Requires, if the CARE Act court does not elect to consider a referral, the CARE Act court to order the appropriate petitioner candidate to do the following within 14 court days:
 - a) Complete an investigation to determine whether to file a petition on behalf of the referred individual.
 - b) Notify the referring court whether it intends to file a CARE Act petition on behalf of the referred individual.

- 19) Provides that if the appropriate petitioner candidate notifies the CARE Act court that it requires additional time to complete its investigation, the CARE Act court may grant an extension of up to 30 court days.

Comments

CARE Act. SB 1338 (Umberg) Chapter 319, Statutes of 2022, established the CARE Act - a new civil court process to provide clinically appropriate, community-based services and supports that are culturally and linguistically competent, to Californians with schizophrenia spectrum disorders and other psychotic disorders, while also preserving these individuals' self-determination to the greatest extent possible.

The CARE Act allows specific people (petitioners) to ask the court to create a voluntary CARE agreement or court-ordered CARE plan for other persons (respondents) who have certain untreated severe mental illnesses, specifically schizophrenia or other psychotic disorders. A CARE agreement or plan may include treatment, housing support, and other services. (See Judicial Council Website, <https://selfhelp.courts.ca.gov/care-act/about> [last viewed Sept. 6, 2025].) CARE Act proceedings involve assessments and hearings to determine whether the respondent meets eligibility requirements. A county behavioral health agency will be involved in the process. If the person qualifies for CARE, a CARE agreement or plan can be made. (*Ibid.*) A CARE agreement is a voluntary agreement entered into by the respondent and the county behavioral health agency after a court has found that the respondent is eligible for the CARE process. The agreement will include an individualized range of community-based services. (*Ibid.*) In contrast, a CARE plan is ordered by the court when a CARE agreement is not reached and a clinical evaluation indicates that the respondent meets criteria, but it includes the same elements as a CARE agreement. Stabilization medications may only be included in a CARE plan if a court finds that the respondent lacks capacity, but the CARE plan cannot force the respondent to take the stabilization medications. (*Ibid.*)

To be eligible under the CARE Act, a person must meet all of the following: (1) be 18 years of age or older; (2) have a serious mental illness and a diagnosis of a schizophrenia spectrum or other psychotic disorder; (3) be currently experiencing a mental illness that is severe in degree and persistent in duration, may cause behavior that interferes substantially with activities of daily living, and may lead to an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period; (4) is not clinically stabilized in ongoing voluntary treatment; (5) is unlikely to survive safely in the community without supervision and the person's condition is

substantially deteriorating or they are 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, (6) CARE would be the least restrictive alternative necessary to ensure the person's recovery and stability; and, (7) is not likely that the person will benefit from participation in CARE.

This bill would expand eligibility for CARE which is currently limited to schizophrenia spectrum and other psychotic disorders, to additionally include bipolar I disorder with psychotic features, except psychosis related to current intoxication.

The first step in the CARE Act process is a petition submitted by a family member, mental health provider, or first responder, among others, with the court. The court then orders a clinical evaluation and appoints both an attorney and a "CARE Supporter" (a person assigned to help the participant understand the CARE Act process and provide the respondent with as much autonomy as is feasible). If the CARE Act court finds that respondent meets the criteria for the program, then the court orders the respondent, CARE Supporter, and county behavioral health agency to develop a CARE Plan. The court then reviews the plan, and if approved, it becomes a court order lasting up to 12 months. Eventually, the participant "graduates" from the CARE program, although they may be provided with ongoing services, including assistance with finding housing. "Graduation" from CARE is designed to occur when a person in need of CARE services, including those who are mentally ill and unhoused, obtains housing of some sort. Existing law provides that when a participant elects to be graduated from the program, the court "shall order" preparation of a graduation plan for that person.

This bill makes several changes to CARE Act court procedures in addition to the IST referrals previously discussed above. The bill would clarify that no hearing is necessary to determine prima facie evidence of eligibility. This bill would authorize the CARE court to direct that an investigation be conducted if information in the referral does not provide all of the information necessary for a petition. This bill would clarify 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. And, significantly, this bill amends existing procedures for graduation from CARE proceedings to require court approval of the respondent's request to graduate from the program.

Mental Competency in Misdemeanor Criminal Proceedings. The Due Process Clause of the United States Constitution prohibits the criminal prosecution of a defendant who is not mentally competent to stand trial. Existing law provides that

if a person has been charged with a crime and is not able to understand the nature of the criminal proceedings and/or is not able to assist counsel in his or her defense, the court may determine that the offender is IST. (Pen. Code § 1367.) When the court issues an order for a hearing into the present mental competence of the defendant, all proceedings in the criminal prosecution are suspended until the question of competence has been determined. (Pen. Code, §1368, subd. (c).)

In order to determine mental competence, the court must appoint a psychiatrist or licensed psychologist to examine the defendant. If defense counsel opposes a finding on incompetence, the court must appoint two experts: one chosen by the defense, one by the prosecution. (Pen. Code, § 11369, subd. (a).) The examining expert(s) must evaluate the defendant's alleged mental disorder and the defendant's ability to understand the proceedings and assist counsel, as well as address whether antipsychotic medication is medically appropriate. (Pen. Code, § 1369, subd. (a).)

Both parties have a right to a jury trial to decide competency. (Pen. Code, § 1369.) A formal trial is not required when jury trial has been waived. (*People v. Harris* (1993) 14 Cal.App.4th 984.) The burden of proof is on the party seeking a finding of incompetence. (*People v. Skeirik* (1991) 229 Cal.App.3d 444, 459-460.) Because a defendant is initially considered competent to stand trial (*Medina v. California* (1992) 505 U.S. 437), usually this means that the defense bears the burden of establishing incompetence. Therefore, defense counsel must first present evidence to support mental incompetence. However, if defense counsel does not want to offer evidence to have the defendant declared incompetent, the prosecution may. Each party may offer rebuttal evidence. Final arguments are presented to the court or jury, with the prosecution going first, followed by defense counsel. (Pen. Code, § 1369, subds. (b)-(e).)

For defendants charged with a felony, if after an examination and hearing the defendant is found IST, the criminal proceedings are suspended and the court shall order the defendant to be referred to Department of State Hospital (DSH), LPS or to any other available public or private treatment facility, including a community-based residential treatment system if the facility has a secured perimeter or a locked and controlled treatment facility, approved by the community program director that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status, except as specified. (Pen. Code § 1368, subd. (c) and 1370, subd. (a)(1)(B).) The court may also make a determination as to whether the defendant is an appropriate candidate for mental health diversion pursuant to Penal Code section 1001.36.

The maximum term of commitment for an IST defendant charged with a felony is two-years, however, no later than 90 days prior to the expiration of the defendant's term of commitment, if the defendant has not regained mental competence shall be returned to the committing court and the court shall not order the defendant returned to the custody of DSH. (Pen. Code, § 1370, subd. (c)(1).) With the exception of proceedings alleging a violation of mandatory supervision, the criminal action may be dismissed in the interests of justice. (Pen. Code, § 1370, subd. (d).)

For defendants charged with a misdemeanor, if the defendant is found IST, the proceedings shall be suspended and the court may do either of the following: 1) conduct a hearing to determine whether the defendant is eligible for mental health diversion; or 2) dismiss the charges pursuant to Penal Code section 1385. If the charges are dismissed, the court shall transmit a copy of the order to county behavioral health director or the director's designee. (Pen. Code, § 1370.01, subd. (b).)

If a misdemeanor defendant is found eligible for diversion, the court may 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 complaint, whichever is shorter. (Pen. Code, § 1370.01, subd. (b)(1)(A).)

If the court finds that the defendant is not eligible for diversion, 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: 1) order modification of the treatment plan in accordance with a recommendation from the treatment provider; 2) refer the defendant to assisted outpatient treatment (AOT); if the defendant is accepted into AOT, the charges shall be dismissed; 3) refer the defendant to the county conservatorship investigator for possible conservatorship if the defendant appears to be gravely disabled, as defined; if a conservatorship is established, the charges shall be dismissed; or 4) refer the defendant to the CARE program; if the defendant is accepted into CARE the charges shall be dismissed. (Pen. Code, § 1370.01, subd. (b)(1)(D).)

The bill allows a criminal court to refer the defendant—even if eligible for diversion--to CARE court. However, this bill states that the referral is contingent on both the defense agreeing to the referral as well as the court having reason to believe the person is eligible. Additionally, this bill provides that if the person is not accepted into the CARE program or if the CARE court refers the defendant back to criminal court before the expiration of the six-month time period, the court

shall proceed as it normally would have with considering the defendant for diversion.

Supporters of this bill state that a subset of misdemeanor IST defendant who are likely to be eligible for CARE and are also likely to be found not suitable for mental health diversion would benefit from an earlier referral to CARE instead of considering mental health diversion first, and then moving into other options including CARE. They argue that oftentimes the defendant is waiting up to 30 days for a hearing on whether they will be granted diversion and then released on their own recognizance. Locating these individuals can be difficult for the behavioral health agency if they have been released.

However, opponents of this bill, which include the Behavioral Health Directors, argue that this does not give them enough time to work up the petition or collaborate with the court and defense counsel and prosecutors to determine whether a person would be a good candidate for CARE court, which could also lead to delays once a person is referred.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

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.

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. CBHDA also expects significant, unknown county costs in addition to these estimates to

implement the bill immediately due to the urgency clause. 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.

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. DHCS 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.

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.

SUPPORT: (Verified 9/12/25)

Alameda County Families Advocating for the Seriously Mentally Ill
Calchamber
California Advocates for SMI
California Big City Mayors Coalition
California Chamber of Commerce
California Retailers Association
California State Association of Psychiatrists
City of Bakersfield
City of San Diego
Orange County Business Council
Treatment Advocacy Center

OPPOSITION: (Verified 9/12/25)

Cal Voices
California Association of Mental Health Peer Run Organizations
California Association of Social Rehabilitation Agencies
California Foundation for Independent Living Centers
California State Association of Public Administrators, Public Guardians, and
Public Conservators
California Youth Empowerment Network
County Behavioral Health Directors Association
County of Fresno

County of San Joaquin
Disability Rights California
Disability Rights Education & Defense Fund
Drug Policy Alliance
Hand in Hand
Homeless Union for Friendship and Freedom
Kelechi Ubozoh Consulting
Law Project for Psychiatric Rights
Mental Health America of California
National Health Law Program
Racial and Ethnic Mental Health Disparities Coalition
The Coelho Center for Disability Law Policy and Innovation
Venice Justice Committee
Western Center on Law & Poverty
Western Regional Advocacy Project

ARGUMENTS IN SUPPORT:

According to Big City Mayors:

Our cities remain deeply committed to connecting vulnerable individuals with the behavioral health services they need. SB 27 strengthens the CARE Court process by speeding up initial proceedings, expanding eligibility, and providing greater clarity—ensuring individuals with serious mental health challenges receive timely and effective care. We appreciate Senator Umberg’s leadership in advancing these critical improvements.

Through the passage of SB 1338 (Umberg, 2022), the State of California took an important step in connecting individuals struggling with serious, untreated mental illness with court-ordered treatment plans through the CARE Court Program. CARE Court has been successful in getting some individuals into a CARE program, but further work to ensure proper implementation is necessary.

Under current law, when a defendant is found mentally incompetent to stand trial for a misdemeanor (MIST), the court may hold a hearing to determine their eligibility for diversion. Only if the individual is ineligible for diversion may they be referred to CARE Court—despite being part of a population that could benefit significantly from CARE services.

ARGUMENTS IN OPPOSITION:

According to the County Behavioral Health Directors Association:

Introduced on the first day of the 2025-2026 legislative session, December 2, 2024, with minimal contents, SB 27 (Umberg) was substantially amended on June 17, 2025, to propose a significant expansion of referrals into as well as individuals eligible for CARE Court. CARE Court is currently in the process of being implemented by county behavioral health and courts across all 58 counties. While county behavioral health agencies are proud of the work we have done to successfully implement CARE Court thus far, we have significant concerns about the proposed changes proposed by this bill. Specifically, this bill would:

- Expand CARE eligibility to include all mood disorders with psychotic features.
 - This change would rapidly and increase by significant magnitudes the populations eligible for CARE Court absent the time, resources, expanded workforce, capacity, or housing needed to accomplish this massive expansion.
 - The general population with some form of mood disorders is approximately 9.7%¹ in any given year, whereas the population with schizophrenia and other psychotic disorders is between 0.33 and 0.75%². The population experiencing bipolar disorder in any given year is closer to 2.8%³.
 - Considering the significantly larger prevalence of mood disorders when compared with thought disorders, this expansion would require significant time and resourcing to accomplish at scale.
 - A shift to include all mood disorders would also represent a fundamental change in the goals of the CARE Act, which have not been discussed to date with clinicians and practitioners.
 - Finally, our subject matter experts currently engaged in implementing CARE Court stressed the importance of having housing readily available for those individuals we engage into treatment and services. If housing is

not on hand, we can miss a crucial window of opportunity in working with clients for whom housing is an urgent need.

- Deems a referral from criminal courts for felonies or misdemeanors, conservatorship or Assertive Outpatient Treatment (AOT) as comparable to a CARE Court petition.
 - The bill proposes to eliminate the requirement for a petition to be filed when individuals are referred by a variety of sources to CARE Court, including for misdemeanor Incompetent to Stand Trial (IST), felony IST, conservatorships, and AOT. This rapid leapfrogging over important court processes skips steps. Fundamental to existing court practice. This will also compromise counties' ability to locate and engage individuals into CARE Court, which is arguably one of the most effective interventions to date supported through the CARE Court program.
- Require any individual with a misdemeanor who is found Incompetent to Stand Trial (IST) to be considered for CARE Court, in addition to diversion.
 - Currently, when individuals with misdemeanor charges deemed IST are released prior to coming to the attention of county behavioral health, counties are rarely able to subsequently locate the individual....
- Adopt a series of procedural changes to the court process which do not make sense to counties currently engaged in CARE Court.
 - Our subject matter experts did not understand the basis or rationale for changes to WIC Section 5977 which seek to merge the initial hearing with the hearing to determine the prima facie determination concurrently. They were uncertain how to implement this. Additional information on the need for this and how it is envisioned would be helpful to practitioners.

ASSEMBLY FLOOR: 74-0, 9/11/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-

Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks,
Wilson, Zbur, Rivas
NO VOTE RECORDED: Bryan, Dixon, Garcia, Lackey, Lee, Sanchez

Prepared by: Sandy Uribe / PUB. S. /
9/12/25 11:09:09

**** **END** ****