



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Behavioral Wellness
Department No.: 043
For Agenda Of: October 11,2022
Placement: Departmental
Estimated Time: 45 mins
Continued Item: No
If Yes, date from:
Vote Required: N/A

TO: Board of Supervisors
FROM: Department Antonette Navarro, LMFT, Director DS
AN 10/7/2022
Director Department of Behavioral Wellness (805) 681-5220
Contact Info: Antonette Navarro, LMFT, Director, Department of Behavioral
Wellness (805) 681-5220
SUBJECT: CARE Court Update

County Counsel Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

It is recommended that the Board of Supervisors:

- A) Receive and file a summary report on the Community Assistance Recovery and Empowerment (CARE) Act which will establish CARE Court in Santa Barbara County by December 1, 2024;
- B) Provide direction as appropriate; and
- C) Determine that the proposed actions are not a "Project" within the meaning of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15378(b)(4), because they consist of the creation of a government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and CEQA Guidelines Section 15378(b)(5) since the proposed actions are the organizational or administrative activities of government that will not result in indirect or direct physical changes in the environment.

Summary Text:

This item on the agenda is to provide the Board of Supervisors an overview of newly enacted legislation, Senate Bill 1338, otherwise known as the CARE Court Act. This legislation is the first of its kind nationally to take a comprehensive and proactive approach to addressing the treatment and housing needs for those suffering from untreated schizophrenia spectrum and psychotic disorders in California. This legislation is a requirement for all 58 California Counties and will be phased in over the next few

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years. The first eight (8) counties to implement CARE Court will begin October 1, 2023, with the remaining counties implementing by December 1, 2024, unless granted an extension by the State's Department of Health Care Services (DHCS). Implementation extensions will not extend past December 1, 2025. There will be no option to opt-out.

CARE Court implementation is a set of prescribed actions and responsibilities overseen by the court. The largest share of the legislated duties for care and treatment of individuals who qualify for CARE Court services is the responsibility of County Behavioral Health, no matter the insurance status of the individuals referred. It is expected that the majority of persons referred and accepted into CARE Court will be Medi-Cal recipients, however; and the Act does require health plans and private insurance to reimburse County Behavioral Health for assessments and services provided to their members.

At this time the extent of fiscal and staffing impacts that will occur as a result of CARE Court implementation are unknown.

Background:

In September 2022, Governor Newsom signed into legislation Senate Bill 1338 by Senator Thomas Umberg (D-Santa Ana) and Senator Susan Talamantes Eggman (D-Stockton). Known as the Community Assistance Recovery, and Empowerment (CARE) Act this law establishes CARE Court, a new civil court system of referral and treatment for persons diagnosed with schizophrenia or some other psychotic disorder classification diagnosis. Expanding on the principles and actions of Laura's Law, CARE Court will allow family members, persons who share a household, clinicians, and first responders, among others, to refer persons suspected to be experiencing symptoms related to schizophrenia or some other psychotic disorder classification diagnosis to a civil court to petition for assistance in securing treatment services for them. Unlike qualifying criteria for Laura's Law, a person need not have ever had any law enforcement or justice-system contact; nor have had significant longer-term treatment failure in order to be considered for CARE Court participation. All persons referred to CARE Court will receive a comprehensive assessment, conducted by county behavioral health staff, to ascertain if they have a qualifying mental health diagnosis.

Other criteria for CARE Court participation require that an individual:

- must be 18 or older;
- is not clinically stabilized in on-going voluntary treatment;
- is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating OR needs 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 of the Welfare and Institutions Code;
- participation in a CARE plan or CARE agreement would be the least restrictive alternative necessary to ensure the person's recovery and stability;
- is likely to benefit from participation in a CARE plan or CARE agreement

A valid petition may result in either a voluntary CARE agreement or a court-ordered CARE agreement that will provide treatment services for a period of up to 2 years. Services will be provided in the county behavioral health system and will include all manner of mental health services, including court-ordered

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but not forced medication. Enrollment in full-service partnerships is noted in the legislation as the expected primary treatment service modality. Specifically, it is noted that “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”.

A crucial component of CARE Court is that counties must demonstrate the availability of a full range, of housing options for access to CARE Court recipients to be located within their county boundaries. The CARE Act has identified that various housing and clinical residential placements are available to cities and counties, including over \$14 billion in state funding that has been made available over the last two years to address homelessness, including under No Place Like Home, which is funded by MHSA, and the Behavioral Health Continuum Infrastructure Program, and Project Roomkey among others. CARE process participants will be prioritized for any appropriate bridge housing funded by the Behavioral Health Bridge Housing program which provides \$1.5 billion in funding for housing and housing support services.

This legislation further requires counties to provide counsel to all persons referred to CARE Court (Respondents) if they do not have representation; and that the civil CARE Court provide a “supporter” to each Respondent to act as a consistent support in regard to decision-making, treatment engagement, and as a liaison to both the mental health and court proceedings, with the ultimate duty of keeping the Respondent on track with the CARE agreement/plan. The entire treatment process will be overseen by the court with regularly scheduled updates no less than every 60 days. If a person fails out of their CARE Plan, within 21 days there must be an evaluation for competency and/or need to proceed to court ordered medication. However, under the CARE Act, medication cannot be forced. Moreover, the law states that after 1 year, if person was not successful, the court can only order up to 1 more year of the outpatient care and supports. Following a successful graduation at end of year 1, or completion of 2 years of care, a person will simply be exited from the program. No automatic referral to the Public Guardian’s Office for conservatorship will be made unless the evaluation done following noncompliance demonstrates that should be done.

Finally, while it is expected that housing and housing supports will be provided under full-service partnership participation and/or as a key goal of the CARE Agreement/Plan, the responsibility for funding of and/or maintenance of housing/housing supports is not legislated. Rather just that a county have available and accessible options to meet a spectrum of housing needs within their county’s catchment area is what is mandated.

Currently the Department of Behavioral Wellness (BWell) is working internally and with the other CARE Court involved County departments to coordinate and plan protocols, communication pathways, and best practices for the target population in preparation for full implementation of Santa Barbara County’s civil CARE Court in 2024. As we move along in the planning, the County department partners will provide reports out to the community and solicit input from stakeholders to ensure procedures and protocols are responsive to the experiences and needs expressed.

Performance Measure: N/A

Contract Renewals and Performance Outcomes: N/A

Fiscal and Facilities Impacts:

Funding for CARE Court includes monies allocated by the state for technical assistance, data and evaluation, legal representation for the respondent, and funding to support court and county administration.

For the county behavioral health services components of CARE Court, existing funding resources including MHSA, 1991 Realignment, 2011 Realignment, Medi-Cal Federal Financial Participation matching funds, and reimbursement by Medi-Cal Managed Care and private health insurance are identified as the primary monies expected to cover the majority of the services. Late addition edits to the legislation now require DHCS to participate with counties individually ahead of CARE Court implementation to ensure adequate resources are available to meet demand. Counties found to not be in compliance with CARE Court orders may be sanctioned 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.

Over the next 2 years, DHCS will engage Santa Barbara County in discussions to assess expected fiscal impacts, evaluate current resources and explore additional funding to ensure best possible outcomes for potential CARE Court recipients following implementation in December 2024.

Fiscal Analysis: N/A at this time

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

Narrative:

Key Contract Risks:

Staffing Impacts: Unknown at this time

<u>Legal Positions:</u>	<u>FTEs:</u>
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Special Instructions:


Attachments:

Link to final SB 1338 language:

[Bill Text - SB-1338 Community Assistance, Recovery, and Empowerment \(CARE\) Court Program.](#)

Authored by:

A. Navarro

DocuSigned by:

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10/7/2022

cc:

Tanja Heitman, Chief Probation Officer

Tracy Macuga, Chief Public Defender