

SB 1338 Rules and Forms

Community Assistance, Recovery, and Empowerment (CARE) Act

May 12, 2023



Background on CARE Act

- Legislature passed the Community Assistance, Recovery, and Empowerment (CARE) Act (Stats. 2022, ch. 319).
- Created new legal mechanism for certain adults to directly petition a civil court to determine if someone meets criteria for CARE Act services, including treatment, housing resources, and supports.
- The act aims to divert and prevent restrictive conservatorships or incarcerations through a court-ordered CARE plan or court-approved CARE agreement for up to 12 months.

Role of the Judicial Council

- Support the integrity and independence of the judicial branch and seek to ensure that judicial procedures enhance efficiency and access to the courts.
- Improve the administration of justice by adopting rules for court administration and procedure that are not inconsistent with statute.
- Rules cannot enact substantive policy changes, which require legislative action and approval by the Governor.

Role of the Judicial Council in CARE Act Implementation

- Provide training and implementation assistance to courts
- Distribute funding
- Act as communications hub for cohort 1 courts
- Draft rules and forms
- Collect and report program data
- Coordinate with legal aid programs
- Highlight potential legislation updates

Role of the Judicial Council in CARE Act Implementation

CARE Act requires the Judicial Council to adopt:

- A mandatory petition form, as well as any other forms “necessary for the CARE process”
- Rules of court to “implement the policies and provisions” of sections 5977–5977.4 “to promote statewide consistency,” including:
 - What is included in the petition form packet
 - Clerk’s review of the petition
 - The process by which counsel will be appointed

Proposal – Rules of Court

- Create new division within title 7 and amend to “Probate and Mental Health Rules”
- 11 new procedural rules of court
 - Preliminary rules
 - Commencement of proceedings
 - Notice and joinder rules
 - Accountability rules

Proposal – Mandatory Forms

- Petition (CARE-100)
- Mental health declaration (CARE-101)
- Order for CARE report (CARE-105)
- Notice of order for CARE report (CARE-106)
- Notice of initial appearance (CARE-110)
- Notice of hearing (CARE-115)
- Information for respondents (CARE-060-INFO)
- Notice of respondents rights (CARE-113)

Proposal – Optional Forms

- Information for Petitioners (CARE-050-INFO)
- Proof of Personal Service on Respondent (CARE-107, CARE-111, CARE-116)
- Request for new or modified order and request for hearing (CARE-120)

Revisions to rule based on comments

- Personal service on respondent for all notice, unless impracticable
- Availability of alternate methods of service
- Access to records for supporter, with express consent of the respondent, and agency counsel
- Notice to agency counsel upon transfer orders
- Improved readability for information forms
- Expanded optional information for the petition