



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-126*

For business meeting on July 12, 2024

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**Title**

Mental Health Law: CARE Act and Related Proceedings

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

Approve form CARE-103

**Effective Date**

September 1, 2024

**Recommended by**

Probate and Mental Health Advisory Committee  
Hon. Jayne Chong-Soon Lee, Chair

**Date of Report**

May 21, 2024

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### Executive Summary

The Probate and Mental Health Advisory Committee recommends approving an optional form for the court's use to order the county agency to provide information to the respondent's attorney in specified related proceedings that a petition to commence proceedings under the Community Assistance, Recovery, and Empowerment (CARE) Act has been filed on the respondent's behalf. This form, recommended in response to comments from courts and counties, would facilitate the process required by rule 7.2210(e) of the California Rules of Court.

### Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective September 1, 2024, approve *Order to Provide Information to Respondent's Attorney in Related Proceedings* (form CARE-103) for optional use.

The proposed form is attached at page 5.

## Relevant Previous Council Action

At its May 12, 2023, meeting, the Judicial Council approved new rules and forms to implement the CARE Act, a 2022 statute that created a comprehensive process to provide a “path to care and wellness” for Californians living with schizophrenia spectrum and other psychotic disorders that lead to “risks to their health and safety and increased homelessness, incarceration, hospitalization, conservatorship, and premature death.”<sup>1</sup> Specifically, the council adopted California Rules of Court, rules 7.2201 through 7.2230, as a new chapter in Probate and Mental Health Rules.<sup>2</sup> At the same meeting, the council adopted a new category of forms (CARE forms), with 13 new forms to implement requirements and provisions of the CARE Act. The CARE Act rules and forms took effect on September 1, 2023. Then, on May 17, 2024, the Judicial Council approved rule amendments and form revisions in response to CARE Act cleanup legislation and input from the first cohort of courts and counties to implement the act.<sup>3</sup> Those rules and forms will take effect on September 1, 2024.

## Analysis/Rationale

One of the amendments adopted by the council on May 17, 2024, added subdivision (e) to rule 7.2210. The new provision requires the CARE Act court—on learning that the respondent was referred from a proceeding specified in section 5978<sup>4</sup> or is within a juvenile court’s dependency, delinquency, or transition jurisdiction—to order the county agency to (1) inform the respondent’s attorney in the related proceeding that a petition to commence CARE Act proceedings has been filed, and (2) provide that attorney with the name and contact information of the respondent’s attorney in the CARE Act proceedings.

Although commenters generally agreed with the addition of subdivision (e) to rule 7.2210, several expressed concern about the ability of the county agency to obtain the information it would need to contact and inform the attorney in the related proceedings about the CARE Act proceeding. One court suggested that a form order that included any known information about the related case and the respondent’s attorney in that case would be helpful. In response to the comments received, the committee recommends approval of *Order to Provide Information to*

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<sup>1</sup> Sen. Bill 1338 (Stats. 2022, ch. 319, § 1(a)). The act is codified at Welfare and Institutions Code sections 5970–5987; it took effect January 1, 2023. All subsequent statutory references are to the Welfare and Institutions Code unless otherwise specified.

<sup>2</sup> Judicial Council of Cal., Advisory Com. Rep., *Mental Health Law: Community Assistance, Recovery, and Empowerment Act* (Apr. 5, 2023), <https://jcc.legistar.com/View.ashx?M=F&ID=11916930&GUID=CC7CB44F-5975-489C-9159-9627D77EFCA5>. All subsequent references to rules are to the California Rules of Court unless otherwise specified.

<sup>3</sup> Judicial Council of Cal., Advisory Com. Rep., *Mental Health Law: CARE Act Rule Amendments and Form Revisions* (Mar. 27, 2024), <https://jcc.legistar.com/View.ashx?M=F&ID=12871000&GUID=DA967F26-56F7-4FD4-842F-A1FB4357D794>. On September 30, 2023, Governor Newsom signed Senate Bill 35 (Stats. 2023, ch. 283), a CARE Act cleanup bill, which took effect immediately.

<sup>4</sup> Section 5978 authorizes a court to refer a person to CARE Act proceedings from proceedings to determine a misdemeanor defendant’s competence to stand trial, assisted outpatient treatment proceedings, and mental health conservatorship proceedings under the Lanterman-Petris-Short Act.

*Respondent's Attorney in Related Proceedings* (form CARE-103) for this purpose, effective September 1, 2024. This optional form would supply a vehicle for the court to issue the order required by rule 7.2210(e) and provide information to assist the county agency in carrying out the order.

The CARE Act court's duty to issue the order depends on its learning of the related proceeding and not on receipt of a motion or request. The committee therefore anticipates that the court would issue the order *sua sponte* or, perhaps, in response to a party's having filed the form as a proposed order in conjunction with the petition or another filing that disclosed the existence of the related proceeding. The form directs the court or the party filing the form to supply the case number of the related proceeding and the name and contact information of the respondent's attorney in that proceeding, if known.

### **Policy implications**

The approval of form CARE-103 will assist courts in complying with the requirements in rule 7.2210(e). In providing a simple vehicle for the court to use to order limited information sharing, the form will improve the quality of justice and service to the public by allowing better coordination of a respondent's judicial proceedings and mental health treatment.

### **Comments**

The recommended form circulated for public comment from April 5 to May 3 in the spring 2023 invitation-to-comment cycle. The committee received three comments. Two commenters agreed with the proposal if modified and one did not indicate a position. A chart of comments is attached at pages 6–7. The committee has reviewed the comments and recommends no changes to the form as circulated for comment.

One commenter suggested changing the language of the proposed form to specify more clearly that the term “agency,” as used in the form, refers to the agency that referred the respondent to CARE Act proceedings under section 5978 and not to the respondent's counsel. The committee does not recommend changing the language on the recommended form. “Agency” does not refer to an agency that referred the respondent to CARE. Section 5978 authorizes only a *court* to refer a respondent to CARE. In addition, the form uses the same terms as those used throughout the CARE Act itself and the CARE Act rules to refer to agency and counsel. The statute and rules never refer to respondent's counsel as an “agency”; they consistently refer to counsel as “attorney” or “counsel.” The courts and counties that have already implemented the CARE Act have not reported difficulty distinguishing between agency and counsel because of the terms used. The use of these terms on form CARE-103 is unlikely to cause confusion.

One superior court requested that the effective date of the proposed form be postponed to allow courts more time for implementation. The committee does not recommend the suggested change. Effective September 1, 2024, rule 7.2210(e) will require the CARE Act court to order the designated county agency to inform the respondent's attorney in specified related proceedings that a CARE Act petition has been filed for the respondent and provide the name and contact information of the respondent's CARE Act counsel. Because form CARE-103 is intended for the

court's optional use to issue that order, the committee prefers to make the form available September 1 to courts that are able to use it at that time. Courts that wish to use the form but are unable to do so by that date may issue the required order using other means until they can use the form.

### **Alternatives considered**

The committee considered not proposing this form but determined, based on comments received on the proposed addition of subdivision (e) to rule 7.2210, that an optional form for issuing the required order would be useful to the courts, the county agency, and respondent's counsel.

### **Fiscal and Operational Impacts**

Courts that elect to use form CARE-103 will face the usual effects of implementing a new form. They will need to update their procedures, alert clerks, and train staff, who will then need to file and mail the order. Because the recommended order form is optional, courts may choose not to use it. They will still need to update procedures and train staff and judicial officers of the need to issue an order in some format, under rules previously approved by the council.

### **Attachments and Links**

1. Form CARE-103, at page 5
2. Chart of comments, at pages 6–7

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:	<b>FOR COURT USE ONLY</b>  <b>DRAFT 052124</b> <b>Not approved by</b> <b>the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name):  <div style="text-align: right;">RESPONDENT</div>		
<b>ORDER TO PROVIDE INFORMATION TO RESPONDENT'S ATTORNEY IN RELATED PROCEEDINGS</b>		CASE NUMBER:

1. The respondent
  - a.  was referred to CARE Act proceedings from:
    - (1)  a misdemeanor proceeding, as provided in Penal Code section 1370.01.
    - (2)  an assisted outpatient treatment proceeding under Welfare and Institutions Code sections 5345 to 5349.1.
    - (3)  a conservatorship proceeding under Welfare and Institutions Code sections 5350 to 5372.
  - b.  is currently within a juvenile court's dependency, delinquency, or transition jurisdiction.
2. The court orders (name):  
 as director of (name of county agency):  
 or the director's designee, no later than 10 court days after receipt of this order, to inform the respondent's attorney in the proceeding identified in item 1 that:
  - a. a CARE Act petition has been filed on behalf of the respondent; and
  - b. the attorney representing the respondent in the CARE Act proceeding is:  
 (name):  
 (mailing address):  
  
 (telephone number): (email address):

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

**RELATED CASE INFORMATION**

**To the party filing the proposed order and the court (if acting sua sponte or if any field below is left blank when filed):**  
 Complete item 3 and enter all known information in items 4, 5, and 6, below, to assist the county agency in complying with the order.

3. The person entering the information below is (name):  
 (job title): (employer):
4.  The related proceeding is pending in the Superior Court of \_\_\_\_\_ County, not the court named above.
5. The case number of the related proceeding is (number):
6. The contact information for the respondent's attorney in the related proceeding is:  
 (name):  
 (mailing address):  
  
 (telephone number): (email address):

The information above is true and correct to the best of my knowledge.

Date: \_\_\_\_\_

\_\_\_\_\_  
 (TYPE OR PRINT NAME) ▶  
\_\_\_\_\_  
(SIGNATURE)

## SPR24-37

### Mental Health Law: CARE Act and Related Proceedings (Approve form CARE-103, *Order to Provide Information to Respondent's Attorney in Related Proceedings*)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Orange County Bar Association by Christina Zabat-Fran, President	AM	The form should specify that the “agency” to whom the order is addressed is the agency that made the referral pursuant to WIC 5978 in order to clarify that the order does not apply to Respondent’s counsel.	The committee does not recommend changing the language on the form. “Agency” does not refer to an agency that referred the respondent to CARE. Section 5978 authorizes only a <i>court</i> to refer a respondent to CARE. In addition, the form uses the same terms as those used throughout the CARE Act itself and the CARE Act rules to refer to agency and counsel. The statute and rules never refer to respondent’s counsel as an “agency”; they consistently refer to counsel as “attorney” or “counsel.” The courts and counties in Cohort 1 have not reported difficulty distinguishing between agency and counsel because of the terms used. The use of these terms on form CARE-103 is not likely to cause confusion.
2.	Superior Court of Los Angeles County by Bryan Borys, Director of Research and Data Management	AM	The Court agrees with the proposal in SPR24-37, “Mental Health Law: CARE Act and Related Proceedings,” if it is modified to allow more time for implementation. Six months are needed for implementation, so that trial courts may configure systems that automatically generate the form.	The committee does not recommend postponing the proposed form’s effective date. Effective September 1, 2024, rule 7.2210(e) will require the CARE Act court to order the county agency to inform the respondent’s attorney in specific related proceedings that a CARE Act petition has been filed for the respondent and provide the name and contact information of the respondent’s CARE Act counsel. The form is proposed for the court’s optional use to issue that order. The committee prefers to recommend that the form be available September 1 to those courts that would like to use it. Courts that are not able to use the form or prefer not to may issue the required order using other methods.
3.	Superior Court of Riverside County by Sarah Hodgson, Chief Deputy of Legal Services/General Counsel	NI	The proposal addresses the stated purpose.	The committee appreciates the court’s comment. No further response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

**SPR24-37**

**Mental Health Law: CARE Act and Related Proceedings** (Approve form CARE-103, *Order to Provide Information to Respondent's Attorney in Related Proceedings*)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>Would the proposal provide cost savings? If so, please quantify.  <b>A: No cost savings</b></p> <p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?  <b>A: Update procedure, clerk alert, training of staff, create new CMS code. Develop mechanism for noticing agency director. The proposal could have a significant impact to courtroom staff if staff has to file and mail the order.</b></p> <p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?  <b>A: Depend on vendor time tables. No sooner than 3 but up to 6 months may be needed.</b></p> <p>How well would this proposal work in courts of different sizes?  <b>A: This proposal should work well in courts of different sizes.</b></p>	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated