



Subject Text

Meeting materials
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Title

Rules and Forms | Mental Health Law: Community Assistance, Recovery, and Empowerment Act (Action Required)

Summary

The Probate and Mental Health Advisory Committee recommends eleven new rules of court, one amended rule, and thirteen new forms to implement requirements in the Community Assistance, Recovery, and Empowerment (CARE) Act (Stats. 2022, ch. 319). The CARE Act establishes a new, noncriminal proceeding that authorizes a court--in response to a petition and after determining by clear and convincing evidence that the person for whom the petition is filed meets the necessary statutory criteria--to order the county behavioral health agency to work with the person to engage in services and determine whether a CARE agreement can be reached or, if those efforts are unsuccessful, to develop a CARE plan. Once the court has ordered a CARE plan, the court must hold regular status hearings to review the progress of the person and the county behavioral agency with the services ordered. The act requires the Judicial Council to develop a mandatory petition form, any other forms necessary for the court process, and rules of court to implement provisions of the act governing judicial proceedings.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective September 1, 2023:

1. Rename title 7 of the California Rules of Court the “Probate and Mental Health Rules” and reorganize it as follows:
 - Separate title 7 into two divisions, division 1 and division 2;
 - Place the Probate Rules in division 1 and name division 1 “Probate Rules”;
 - Name division 2 “Mental Health Rules” and separate division 2 into two chapters;
 - Reserve chapter 1 of division 2 for future rules;
 - Name chapter 2 of division 2 “CARE Act Rules”; and
 - Place the rules recommended below in chapter 2 of division 2 of title 7;
2. Adopt Cal. Rules of Court, rules 7.2201, 7.2205, 7.2210, 7.2221, 7.2223, 7.2225, 7.2230, 7.2235, 7.2240, 7.2301, and 7.2303 to implement provisions of the new CARE Act, as follows:
 - Rule 7.2201 states the purpose of the CARE Act rules;
 - Rule 7.2205 defines terms as used in those rules;
 - Rule 7.2210 circumscribes access to court records of CARE Act proceedings;
 - Rule 7.2221 specifies the contents of the petition packet and the clerk’s duties on receipt of a petition;
 - Rule 7.2223 clarifies the application of the statutory venue provisions and provides a procedure for transferring proceedings to the proper court if required;
 - Rule 7.2225 clarifies the persons authorized to file a petition;
 - Rule 7.2230 provides a framework for appointing and substituting counsel for the respondent;
 - Rule 7.2235 establishes procedures for serving notice and other documents;
 - Rule 7.2240 establishes a process for responding to a motion to join a local government entity to CARE Act proceedings;

- Rule 7.2301 establishes a process for the presiding judge or designee to issue an order to show cause and set a hearing for its return; and
 - Rule 7.2303 clarifies the respondent's right to participate in all accountability hearings;
3. Amend rule 1.4 to reflect the inclusion of the new mental health rules in title 7 of the Rules of Court;
4. Adopt *Information for Respondents--About the CARE Act* (form CARE-060-INFO), *Petition to Commence CARE Act Proceedings* (form CARE-100), *Mental Health Declaration--CARE Act Proceedings* (form CARE-101), *Order for CARE Act Report* (form CARE-105), *Notice of Order for CARE Act Report* (form CARE-106), *Notice of Initial Appearance--CARE Act Proceedings* (form CARE-110), *Notice of Respondent's Rights--CARE Act Proceedings* (form CARE-113), and *Notice of Hearing--CARE Act Proceedings* (form CARE-115), as mandatory forms to implement requirements of the CARE Act, as follows:
- Form CARE-060-INFO is for use to inform the respondent about the CARE Act, explain the nature of CARE Act proceedings, summarize petitioner's and respondent's rights, and describe the role of a supporter;
 - Form CARE-100 is for use to file a petition to begin CARE Act proceedings;
 - Form CARE-101 is for use to provide a declaration under Welfare and Institutions Code section 5975(d)(1);
 - Form CARE-105 is for use to order a report under Welfare and Institutions Code section 5977(a)(3)(B);
 - Form CARE-106 is for use to provide notice that a report has been ordered;
 - Form CARE-110 is for use to provide notice of the initial appearance;
 - Form CARE-113 is for use to inform respondents of their rights in the CARE Act process; and
 - Form CARE-115 is for use to provide notice of any hearing that occurs after the initial appearance in a CARE Act proceeding;
5. Approve *Information for Petitioners--About the CARE Act* (form CARE-050-INFO), *Proof of Personal Service of Notice of Order for CARE Act Report* (form CARE-107), *Proof of Personal Service of Notice of Initial Appearance--CARE Act Proceedings* (form CARE-111), *Proof of Personal Service of Notice of Hearing--CARE Act Proceedings* (form CARE-116), and *Request for New Order and Hearing--CARE Act Proceedings* (form CARE-120) to implement provisions of the CARE Act, as follows:
- Form CARE-050-INFO is for use to inform petitioners about the CARE Act process and instruct them how to properly fill out the petition, form CARE-100;
 - Form CARE-107 is for use to provide proof of personal service of forms CARE-105 and CARE-106 on the respondent;
 - Form CARE-111 is for use for proof of personal service of form CARE-110 on the respondent;
 - Form CARE-116 is for use for proof of personal service of form CARE-115 on the respondent; and
 - Form CARE-120 is for use to request a new or modified court order and a hearing on that request.

Speakers

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

Ms. Anne Hadreas, Center for Families, Children & the Courts