



Judicial Council of California

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INVITATION TO COMMENT

SPR24-37

Title

Mental Health Law: CARE Act and Related Proceedings

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Approve form CARE-103

Proposed Effective Date

September 1, 2024

Proposed by

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

Contact

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Executive Summary and Origin

The Probate and Mental Health Advisory Committee proposes 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 would facilitate the process required by recommended rule 7.2210(e) of the California Rules of Court in response to statutory amendments and input from courts and counties.

Background

The Legislature and Governor enacted the CARE Act in 2022 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.”¹ To achieve this end, the act authorizes specified adults to petition a superior court for a determination that the person for whom the petition is filed (the respondent) is eligible to participate in the CARE Act process and, if so, for

¹ Sen. Bill 1338 (Stats. 2022, ch. 319, § 1(a)). The act is codified at Welfare and Institutions Code sections 5970–5987. All subsequent statutory references are to the Welfare and Institutions Code unless otherwise specified.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

an order beginning the CARE Act process for the respondent.² The CARE Act took effect January 1, 2023.

At its May 12, 2023, meeting, the Judicial Council approved the adoption of California Rules of Court, rules 7.2201 through 7.2230, as a new chapter in Probate and Mental Health Rules. 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. Those rules of court and forms took effect on September 1, 2023.

On September 30, 2023, Governor Newsom signed a CARE Act cleanup bill, Senate Bill 35 (Stats. 2023, ch. 283), which took effect immediately as urgency legislation. As provided in the original CARE Act, seven courts began accepting CARE Act petitions on October 1, 2023; the Los Angeles court joined them on December 1, 2023. In response to SB 35's statutory amendments and input from the first cohort of courts and counties to implement the act, the committee circulated proposed rule amendments and form revisions in the winter 2024 invitation-to-comment cycle.³ The Judicial Council is scheduled to consider the recommended rules and forms, revised in response to comments received, at its May 2024 meeting. If the council approves the recommendation, the amended rules and revised forms would take effect September 1, 2024.

The Proposal

As part of the proposal circulated in winter 2024, the committee, joined by the Family and Juvenile Law Advisory Committee, proposed adding subdivision (e) to rule 7.2210. The new provision would require the CARE Act court—upon learning that the respondent had been referred from a proceeding specified in section 5978⁴ or was at that time 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 had been filed, and (2) provide that attorney with the name and contact information of the respondent's attorney in the CARE Act proceedings.

Commenters generally agreed with the proposed amendment but 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 known information about the related case and the respondent's attorney in that case would be helpful. The committee agrees and proposes approval of *Order to Provide*

² §§ 5972, 5974, 5975, and 5977.

³ See Judicial Council of Cal., Invitation to Comment W24-03, *Mental Health Law: CARE Act Rule Amendments and Form Revisions*, www.courts.ca.gov/documents/w24-03.pdf.

⁴ 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 (LPS) Act.

Information to Respondent’s Attorney in Related Proceedings (form CARE-103) for this purpose, effective September 1, 2024.

Because rule 7.2210(e) conditions the CARE Act court’s duty to issue the order on its learning of the related proceeding and not on receipt of a motion or request, the committee 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 therefore 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, to assist the county agency in carrying out the order.

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 and parties.

Fiscal and Operational Impacts

The committee does not anticipate any fiscal or operational impact from the approval of this form.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- 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?
- Would one month from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Form CARE-103, at page 4

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:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CARE ACT PROCEEDINGS FOR (name): <div style="text-align: right;">RESPONDENT</div>		
ORDER TO PROVIDE INFORMATION TO RESPONDENT'S ATTORNEY IN RELATED PROCEEDINGS		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 proceeding is pending in the Superior Court of (county, if different from 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)