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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES [5000 - 5987]** ( *Division 5 repealed and added by Stats. 1967, Ch. 1667.* )

**PART 8. The Community Assistance, Recovery, and Empowerment Act [5970 - 5987]** ( *Part 8 added by Stats. 2022, Ch. 319, Sec. 7.* )

**CHAPTER 2. Process [5972 - 5978.2]** ( *Chapter 2 added by Stats. 2022, Ch. 319, Sec. 7.* )

**5972.** An individual shall qualify for the CARE process only if all of the following criteria are met:

- (a) The person is 18 years of age or older.
- (b) The person is currently experiencing a serious mental disorder, as defined in paragraph (2) of subdivision (b) of Section 5600.3 and has a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders, as defined in the most current version of the Diagnostic and Statistical Manual of Mental Disorders. This section does not establish respondent eligibility based upon a psychotic disorder that is due to a medical condition or is not primarily psychiatric in nature, including, but not limited to, physical health conditions such as traumatic brain injury, autism, dementia, or neurologic conditions. A person who has a current diagnosis of substance use disorder as defined in paragraph (2) of subdivision (a) of Section 1374.72 of the Health and Safety Code but who does not also meet the required criteria in this section shall not qualify for the CARE process.
- (c) The person is not clinically stabilized in on-going voluntary treatment.
- (d) At least one of the following is true:
  - (1) The person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating.
  - (2) The person is in need of 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 used in Section 5150.
- (e) Participation in a CARE plan or CARE agreement would be the least restrictive alternative necessary to ensure the person's recovery and stability.
- (f) It is likely that the person will benefit from participation in a CARE plan or CARE agreement.

(Amended by Stats. 2023, Ch. 283, Sec. 5. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)

**5973.** (a) Proceedings under this part may be commenced in any of the following:

- (1) The county in which the respondent resides.
- (2) The county where the respondent is found.
- (3) The county where the respondent is facing criminal or civil proceedings.

(b) If the respondent does not reside in the county in which proceedings are initiated under this subdivision, as determined in accordance with Section 244 of the Government Code, except as provided in subdivision (f) of Section 5982, and this part is operative in the respondent's county of residence, the proceeding shall, with the respondent's consent, be transferred to the county of residence as soon as reasonably feasible. Should the respondent not consent to the transfer, the proceedings shall continue in the county where the respondent was found.

(Amended by Stats. 2023, Ch. 283, Sec. 6. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)

**5974.** The following adult persons may file a petition to commence the CARE process:

- (a) A person with whom the respondent resides.
- (b) A spouse, parent, sibling, child, or grandparent or an individual who stands in loco parentis to the respondent.
- (c) The director of a hospital in which the respondent is hospitalized, including hospitalized pursuant to Section 5150 or 5250, or the director's designee.
- (d) The director of a public or charitable organization, agency, or home, or their designee, who has, within the previous 30 days, provided or who is currently providing behavioral health services to the respondent or in whose institution the respondent resides.
- (e) A licensed behavioral health professional, or their designee, who is, or has been within the previous 30 days, either supervising the treatment of, or treating the respondent for a mental illness.
- (f) A first responder, including a peace officer, firefighter, paramedic, emergency medical technician, mobile crisis response worker, or homeless outreach worker, who has had repeated interactions with the respondent in the form of multiple arrests, multiple detentions and transportation pursuant to Section 5150, multiple attempts to engage the respondent in voluntary treatment, or other repeated efforts to aid the respondent in obtaining professional assistance.
- (g) The public guardian or public conservator, or their designee, of the county in which the respondent resides or is found.
- (h) The director of a county behavioral health agency, or their designee, of the county in which the respondent resides or is found.
- (i) The director of county adult protective services, or their designee, of the county in which the respondent resides or is found.
- (j) The director of a California Indian health services program, California tribal behavioral health department, who has, within the previous 30 days, provided or who is currently providing behavioral health services to the respondent, or the director's designee.
- (k) The judge of a tribal court located in California before which the respondent has appeared within the previous 30 days, or the judge's designee.
- (l) The respondent.

*(Amended by Stats. 2023, Ch. 283, Sec. 7. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)*

**5975.** The Judicial Council shall develop a mandatory form for use to file a CARE process petition with the court and any other forms necessary for the CARE process. The petition shall be signed under the penalty of perjury and contain all of the following:

- (a) The name of the respondent and, if known, the respondent's address.
- (b) The petitioner's relationship to the respondent.
- (c) Facts that support the petitioner's assertion that the respondent meets the CARE criteria in Section 5972.
- (d) Either of the following:
  - (1) An affidavit of a licensed behavioral health professional, stating that the licensed behavioral health professional or their designee has examined the respondent within 60 days of the submission of the petition, or has made multiple attempts to examine, but has not been successful in eliciting the cooperation of the respondent to submit to an examination, within 60 days of the petition, and that the licensed behavioral health professional had determined that the respondent meets, or has reason to believe, explained with specificity in the affidavit, that the respondent meets the diagnostic criteria for CARE proceedings.
  - (2) Evidence that the respondent was detained for a minimum of two intensive treatments pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Part 1, the most recent one within the previous 60 days. Evidence may include, but is not limited to, documentary evidence from the facility where the respondent was detained, or a signed declaration from the petitioner if the petitioner had personal knowledge of the detentions.

*(Amended by Stats. 2024, Ch. 640, Sec. 3. (SB 42) Effective September 27, 2024. Section conditionally operative as provided in Section 5970.5.)*

- 5975.1.** (a) Notwithstanding Section 391 of the Code of Civil Procedure, if a person other than the respondent files a petition for CARE Act proceedings that is without merit or is intended to harass or annoy the respondent, and the person has previously filed a pleading in CARE Act proceedings that was without merit or was intended to harass or annoy the respondent, the petition shall be grounds for the court to determine that the person is a vexatious litigant for the purposes of Title 3A (commencing with Section 391) of Part 2 of the Code of Civil Procedure.
- (b) (1) If a person other than the respondent files a petition for CARE Act proceedings in order to gain an advantage over the respondent in another legal proceeding, then, notwithstanding any other provision of this part, it is cause for suspension, disbarment, or other discipline if a member of the State Bar is found to have filed the petition or assisted in the filing of the petition with knowledge that the filing was being made in order to gain that advantage.
  - (2) For purposes of this subdivision, "legal proceeding" shall not include:
    - (A) A proceeding under Part 1 (commencing with Section 5000) of Division 5.

(B) A proceeding under Section 300.

*(Amended by Stats. 2023, Ch. 283, Sec. 8. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)*

**5975.2.** CARE Act proceedings may be conducted by a superior court judge or by a court-appointed commissioner or other subordinate judicial officer.

*(Added by Stats. 2023, Ch. 283, Sec. 9. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)*

**5975.3.** There shall be no fee for filing under this chapter nor shall any fees be charged by any public officer for services in filing or serving papers or for the performance of any duty enjoined by the CARE Act.

*(Added by Stats. 2023, Ch. 283, Sec. 10. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)*

**5976.** The respondent shall:

- (a) Receive notice of the hearings.
- (b) Receive a copy of the court-ordered evaluation.
- (c) Be entitled to be represented by counsel at all stages of a proceeding commenced under this chapter, regardless of the ability to pay.
- (d) Be allowed to have a supporter be present with them to perform the functions described in Sections 5980 and 5981, subject to the limits provided in those sections.
- (e) Have the right to be present at the hearing unless the respondent waives that right.
- (f) Have the right to present evidence.
- (g) Have the right to call witnesses.
- (h) Have the right to cross-examine witnesses.
- (i) Have the right to appeal decisions, and to be informed of the right to appeal.
- (j) Have the right to an interpreter in all proceedings if necessary for the respondent to fully participate.

*(Amended by Stats. 2023, Ch. 283, Sec. 11. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)*

**5976.5.** (a) Notwithstanding any other law, and except as otherwise provided in this section, a hearing held under this part is presumptively closed to the public.

(b) The respondent may demand that the hearing be public and be held in a place suitable for attendance by the public.

(c) The respondent may request the presence of any family member or friend without waiving the right to keep the hearing closed to the rest of the public.

(d) A request by any other party to the proceeding to make the hearing public may be granted if the judicial officer conducting the hearing finds that the public interest in an open hearing clearly outweighs the respondent's interest in privacy.

(e) All reports, evaluations, diagnoses, or other information filed with the court related to the respondent's health shall be confidential. The respondent may at any time petition the court for an order sealing these records or any other court records in a proceeding held under this part. Notwithstanding any rule of court prohibiting records kept confidential by law from consideration for sealing, if such a petition is filed, there shall exist a presumption in favor of sealing.

(f) The fact that evidence is admitted at a proceeding held under this part shall not be the basis for admission of that evidence in any subsequent legal proceeding.

(g) Photographs, recordings, transcripts, other records of proceedings held under this part, and testimony regarding proceedings held under this part shall not be admissible in any subsequent legal proceeding except upon motion by one of the following in that subsequent legal proceeding:

(1) The respondent.

(2) The county behavioral health agency, the public guardian, or the public conservator.

(h) In a proceeding held under this part, this section shall not affect the applicability of paragraph (2) of subdivision (c) of Section 5977.1, make admissible any evidence that is not otherwise admissible, or permit a witness to base an opinion on any matter that is not a proper basis for that opinion. The admission or exclusion of evidence shall be pursuant to the rules of evidence established by the Evidence Code, including, but not limited to, Section 352 of the Evidence Code, and by judicial decision.

(i) Before commencing a hearing at the respondent's first court appearance, the judicial officer shall inform the respondent of their rights under this section. At subsequent hearings, the court is not required to advise the respondent of their rights under this section upon finding that the respondent understands and waives the additional advisement of their rights.

*(Amended by Stats. 2024, Ch. 640, Sec. 4. (SB 42) Effective September 27, 2024. Section conditionally operative as provided in Section 5970.5.)*

**5977.** (a) (1) The court shall promptly review the petition to determine if the petitioner has made a prima facie showing that the respondent is, or may be, a person described in Section 5972.

(2) If the court finds that the petitioner has not made a prima facie showing that the respondent is, or may be, a person described in Section 5972, the court may dismiss the case and, if the court does so, it shall order that the dismissal is without prejudice, unless Section 5975.1 applies. Nothing other than Section 5975.1 prevents a petitioner whose petition was dismissed without prejudice from refiling the petition with amended information.

(3) If the court finds that the petitioner has made a prima facie showing that the respondent is, or may be, a person described in Section 5972, the court shall do one of the following:

(A) If the petitioner is the director of a county behavioral health agency, or their designee, the court shall do the following:

(i) Set the matter for an initial appearance on the petition within 14 court days.

(ii) Appoint a qualified legal services project, as defined in Sections 6213 to 6214.5, inclusive, of the Business and Professions Code, to represent the respondent. If no legal services project has agreed to accept these appointments, a public defender or other counsel working in that capacity shall be appointed to represent the respondent.

(iii) Determine whether the petition includes all of the following information and, if it does not, order the county behavioral health agency to submit a written report with the court within 14 court days that includes all of the following:

(I) A determination as to whether the respondent meets, or is likely to meet, the criteria for the CARE process.

(II) The outcome of efforts made to voluntarily engage the respondent prior to the filing of the petition.

(III) Conclusions and recommendations about the respondent's ability to voluntarily engage in services.

(iv) Order the county behavioral health agency to provide notice to the respondent, the appointed counsel, and the county behavioral health agency in the county where the respondent resides, if different from the county where the CARE process has commenced.

(B) If the petitioner is a person other than the director of a county behavioral health agency, or their designee, the court shall order a county agency, or their designee, as determined by the court, to investigate, as necessary, file a written report with the court as soon as practicable, but within 30 court days, and provide notice to the respondent and petitioner that a report has been ordered. Parties shall complete the investigation with appropriate urgency. The written report shall include all of the following:

(i) A determination as to whether the respondent meets, or is likely to meet, the criteria for the CARE process.

(ii) The outcome of efforts made to voluntarily engage the respondent during the report period.

(iii) Conclusions and recommendations about the respondent's ability to voluntarily engage in services.

(iv) The information, including protected health information, necessary to support the determinations, conclusions, and recommendations in the report.

(4) If, upon a request by the county agency ordered to investigate and file a report under subparagraph (B) of paragraph (3), the court finds that the county agency is making progress to engage the respondent, the court may, in its discretion, grant the county agency no more than 30 additional days to continue to work with, engage, and enroll the individual in voluntary treatment and services. The county agency shall provide notice to the respondent and petitioner that an extension for filing a report has been granted.

(5) Upon receipt of the report described in subparagraph (B) of paragraph (3), the court shall, within five days, take one of the following actions:

(A) If the court determines that voluntary engagement with the respondent is effective, and that the individual has enrolled or is likely to enroll in voluntary behavioral health treatment, the court shall dismiss the matter.

(B) If the court determines, based on the county agency's report, that the evidence does not support a prima facie showing that the respondent is, or may be, a person described in Section 5972, the court shall dismiss the matter. This section shall not prevent a county behavioral health agency from continuing to voluntarily engage with a person not described in Section 5972 but who is in need of services and supports.

(C) If the court determines, based on the county agency's report, that the evidence does support a prima facie showing that the respondent is, or may be, a person described in Section 5972, and engagement with the county agency was not effective, the court shall do all of the following:

(i) Set an initial appearance on the petition within 14 court days.

(ii) Appoint a qualified legal services project, as defined in Sections 6213 to 6214.5, inclusive, of the Business and Professions Code or, if no legal services project has agreed to accept these appointments, a public defender or other counsel working in that capacity to represent the respondent.

(iii) Order the county agency to provide notice of the initial appearance to the petitioner, the respondent, the appointed counsel, the county behavioral health agency in the county where the respondent resides, and, if different, the county where the CARE court proceedings have commenced.

(b) At the initial appearance on the petition, all of the following shall apply:

(1) The court shall permit the respondent to substitute their own counsel.

(2) Petitioner shall be present. If the petitioner is not present, the matter may be dismissed.

(3) Respondent may waive personal appearance and appear through counsel. If the respondent does not waive personal appearance and does not appear at the hearing, and the court makes a finding in open court that reasonable attempts to elicit the attendance of the respondent have failed, the court may conduct the hearing in the respondent's absence if the court makes a finding in open court that conducting the hearing without the participation or presence of the respondent would be in the respondent's best interest.

(4) A representative from the county behavioral health agency shall be present.

(5) If the respondent asserts that they are enrolled in a federally recognized Indian tribe or are receiving services from an Indian health care provider, a tribal court, or a tribal organization, a representative from the program, the tribe, or the tribal court shall be allowed to be present, subject to the consent of the respondent. The tribal representative shall be entitled to notice by the county of the initial appearance.

(6) (A) If the petitioner is a person other than the director of a county behavioral health agency, or their designee, the court shall issue an order relieving the original petitioner and appointing the director of the county behavioral health agency or their designee as the successor petitioner.

(B) If the original petitioner is described in subdivision (a) or (b) of Section 5974, all of the following apply:

(i) The original petitioner shall have the right to be present and make a statement at the initial hearing on the merits of the petition held pursuant to paragraph (7).

(ii) (I) Until July 1, 2025, the court may, in its discretion, assign ongoing rights of notice to the original petitioner.

(II) Commencing July 1, 2025, unless the court determines, either upon its own motion or upon the motion of the respondent, at any point in the proceedings, that it likely would be detrimental to the treatment or well-being of the respondent, the court shall provide ongoing notice of proceedings to the original petitioner throughout the CARE proceedings, including notice of when a continuance is granted or when a case is dismissed. If a continuance is granted, the notice shall provide a general reason for the continuance, including the absence of the respondent or one of the grounds pursuant to Rule 3.1332 of the California Rules of Court. If a case is dismissed, the notice shall specify the statutory basis for the dismissal. A notice pursuant to this clause shall not disclose any patient information that is protected under the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), or this act, without the respondent's consent.

(iii) To the extent that the respondent consents, the court may allow the original petitioner to participate in the respondent's CARE proceedings.

(iv) The original petitioner may file a new petition with the court, pursuant to Section 5974, if the matter is dismissed and there is a change in circumstances.

(C) If the original petitioner is not described in subdivision (a) or (b) of Section 5974, the court shall not assign ongoing rights to the original petitioner, other than the right to be present and make a statement at the hearing on the merits of the petition held pursuant to paragraph (7).

(7) (A) The court shall set a hearing on the merits of the petition within 10 days, at which time the court shall determine whether, by clear and convincing evidence, the respondent meets the CARE criteria in Section 5972. In making this determination, the court shall consider all evidence properly before it, including any report from the county behavioral health agency ordered pursuant to paragraph (3) of subdivision (a) and any additional admissible evidence presented by the parties, including the petition submitted and any statement given by the original petitioner. A licensed behavioral health professional may testify as an expert concerning whether the respondent meets the CARE criteria in Section 5972 provided that the court finds that the professional has special knowledge, skill, experience, training, or education sufficient to qualify as an expert under Section 720 of the Evidence Code.

(B) The hearing on the merits of the petition may be conducted concurrently with the initial appearance upon stipulation of the successor petitioner and the respondent, subject to the approval by the court.

(c) (1) If, at the hearing on the merits of the petition, the court finds there is not clear and convincing evidence that the respondent meets the CARE criteria in Section 5972, the court shall dismiss the case without prejudice, unless the court makes a finding, in open court, that the original petitioner's filing was not in good faith, in which case the dismissal shall be with prejudice.

(2) If, at the hearing on the merits of the petition, the court finds by clear and convincing evidence that the respondent meets the CARE criteria in Section 5972, the court shall order the county behavioral health agency to work with the respondent, the respondent's counsel, and the supporter to engage the respondent in behavioral health treatment and attempt to enter into a CARE agreement. The court shall set a case management hearing within 14 days.

(3) If the respondent is enrolled in a federally recognized Indian tribe, the respondent shall provide notice of the case management hearing to the tribe, subject to the consent of the respondent.

(d) The following shall apply to any written report submitted by a county behavioral health agency to the court pursuant to this section:

(1) The report is confidential and not subject to disclosure or inspection under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(2) The report is inadmissible in any subsequent legal proceeding, except upon motion of the respondent in that subsequent legal proceeding.

(3) The report shall be confidential pursuant to subdivision (e) of Section 5976.5.

(4) This subdivision shall not affect the applicability of paragraph (2) of subdivision (c) of Section 5977.1, make admissible any evidence that is not otherwise admissible, or permit a witness to base an opinion on any matter that is not a proper basis for such an opinion. The admission or exclusion of evidence shall be pursuant to the rules of evidence established by the Evidence Code, including, but not limited to, Section 352 of the Evidence Code, and by judicial decision.

*(Amended by Stats. 2024, Ch. 640, Sec. 5. (SB 42) Effective September 27, 2024. Section conditionally operative as provided in Section 5970.5.)*

**5977.1.** (a) (1) At the case management hearing, the court shall hear evidence as to whether the parties have entered, or are likely to enter, into a CARE agreement.

(2) If the court finds that the parties have entered, or are likely to enter, into a CARE agreement, the court shall do one of the following:

(A) Approve the terms of the CARE agreement or modify the terms of the CARE agreement and approve the agreement as modified by the court, and continue the matter and set a progress hearing for 60 days.

(B) Continue the matter for 14 days to allow the parties additional time to enter into a CARE agreement, upon stipulation of the parties.

(3) Nothing in this subdivision shall prohibit the parties from agreeing to, and the court from approving, amendments to the CARE agreement.

(b) If the court finds that the parties have not entered into a CARE agreement, and are not likely to enter into a CARE agreement, the court shall order the county behavioral health agency, through a licensed behavioral health professional, to conduct a clinical

evaluation of the respondent, unless there is an existing clinical evaluation of the respondent completed within the last 30 days and the parties stipulate to the use of that evaluation. The evaluation shall address, at a minimum, the following:

(1) A clinical diagnosis of the respondent.

(2) Whether the respondent has the legal capacity to give informed consent regarding psychotropic medication.

(3) Any other information as ordered by the court or that the licensed behavioral health professional conducting the evaluation determines would help the court make future informed decisions about the appropriate care and services the respondent should receive.

(4) An analysis of recommended services, programs, housing, medications, and interventions that support the recovery and stability of the respondent.

(c) (1) The court shall set a clinical evaluation hearing to review the evaluation within 21 days. The court shall order the county to file the evaluation with the court and provide the evaluation to the respondent's counsel no later than five days prior to the scheduled clinical evaluation hearing. The clinical evaluation hearing may be continued for a maximum of 14 days upon stipulation of the respondent and the county behavioral health agency, unless there is good cause for a longer extension.

(2) At the clinical evaluation review hearing, the court shall review the evaluation and other evidence from the county behavioral health agency and the respondent. The county behavioral health agency and the respondent may present evidence and call witnesses, including the person who conducted the evaluation. Only relevant and admissible evidence that fully complies with the rules of evidence may be considered by the court.

(3) At the conclusion of the hearing, the court shall determine whether the respondent, by clear and convincing evidence, meets the CARE criteria in Section 5972 and make orders as follows:

(A) If the court finds that the respondent meets the CARE criteria, the court shall order the county behavioral health agency, the respondent, and the respondent's counsel and supporter to jointly develop a CARE plan within 14 days.

(B) If the court does not find that clear and convincing evidence establishes that the respondent meets the CARE criteria, the court shall dismiss the petition.

(4) If the respondent is a self-identified American Indian or Alaska Native individual, as defined in Sections 1603(13), 1603(28), and 1679(a) of Title 25 of the United States Code, has been determined eligible as an Indian under Section 136.12 of Title 42 of the Code of Federal Regulations, or is currently receiving services from an Indian health care provider or tribal court, the county behavioral health agency shall use its best efforts to meaningfully consult with and incorporate the Indian health care provider or tribal court available to the respondent to develop the CARE plan.

(5) The evaluation and all reports, documents, and filings submitted to the court shall be confidential.

(6) The date for the hearing to review and consider approval of the proposed CARE plan shall be set not more than 14 days from the date of the order to develop a CARE plan, unless the court finds good cause for an extension. The party requesting an extension of time for the CARE plan review hearing shall provide notice to the opposing party and their counsel of the request for extension of time, and the court's order if the request is granted.

(d) (1) At the CARE plan review hearing, the parties shall present their plan or plans to the court. The county behavioral health agency or the respondent, or both, may present a proposed CARE plan.

(2) After consideration of the plans proposed by the parties, the court shall adopt the elements of a CARE plan that support the recovery and stability of the respondent. The court may issue any orders necessary to support the respondent in accessing appropriate services and supports, including prioritization for those services and supports, subject to applicable laws and available funding pursuant to Section 5982. These orders shall constitute the CARE plan and may be amended.

(3) A court may order medication if it finds, upon review of the court-ordered evaluation and hearing from the parties, that, by clear and convincing evidence, the respondent lacks the capacity to give informed consent to the administration of medically necessary stabilization medication. To the extent the court orders medically necessary stabilization medication, the medication shall not be forcibly administered and the respondent's failure to comply with a medication order shall not result in a penalty, including, but not limited to, contempt or termination of the CARE plan pursuant to Section 5979.

(4) If the proposed CARE plan includes services and supports, such as housing, provided directly or indirectly through another local governmental entity, that local entity may agree to provide the service or support, or the court may consider a motion by either of the parties to add the local entity as a party to the CARE proceeding. If the local entity agrees to provide the service or support, it may request to be added as a party by the court.

(5) If, after presentation of the CARE plan or plans, the court determines that additional information is needed, including from a licensed behavioral health professional, the court shall order a supplemental report to be filed by the county behavioral health agency for which the court may grant a continuance of no more than 14 days, unless there is good cause for a longer extension.

(6) If there is no CARE plan because the parties have not had sufficient time to complete it, the court may grant a continuance of no more than 14 days, unless there is good cause for a longer extension.

(7) This subdivision does not prohibit the parties from agreeing to, and the court from approving, amendments to the CARE plan. The court may also approve amendments to the CARE plan upon the finding that those amendments are necessary to support the respondent in accessing appropriate services and supports, following a hearing on the issue.

(e) The issuance of an order approving a CARE plan pursuant to paragraph (2) of subdivision (d) begins the CARE process timeline, which shall not exceed one year.

*(Amended by Stats. 2024, Ch. 640, Sec. 6. (SB 42) Effective September 27, 2024. Section conditionally operative as provided in Section 5970.5.)*

**5977.2.** (a) (1) At intervals set by the court and not less frequently than every 60 days after the court orders the CARE plan, the court shall hold a status review hearing. The county behavioral health agency shall file with the court and serve on the respondent, and the respondent's counsel and supporter, a report no fewer than five court days prior to the review hearing with the following information:

(A) The progress that the respondent has made on the CARE plan.

(B) What services and supports in the CARE plan were provided, and what services and supports were not provided.

(C) Any issues the respondent expressed or exhibited in adhering to the CARE plan.

(D) Recommendations for changes to the services and supports to make the CARE plan more successful.

(2) The respondent shall be permitted to respond to the report submitted by the county behavioral health agency and to the county behavioral health agency's testimony. The respondent shall be permitted to introduce their own information and recommendations.

(3) Subject to applicable law, intermittent lapses or setbacks described in this section of the report shall not impact access to services, treatment, or housing.

(b) The county behavioral health agency or the respondent may request, or the court upon its own motion may set, a hearing to occur at any time during the CARE process to address a change of circumstances.

*(Amended by Stats. 2023, Ch. 283, Sec. 15. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)*

**5977.3.** (a) (1) In the 11th month of the process timeline, the court shall hold a one-year status hearing. Not fewer than five court days prior to the one-year status hearing, the county behavioral health agency shall file a report with the court and shall serve the report on the respondent and the respondent's counsel and supporter. The report shall include the following information:

(A) The progress that the respondent has made on the CARE plan, including a final assessment of the respondent's stability.

(B) What services and supports in the CARE plan were provided, and what services and supports were not provided, over the life of the program.

(C) Any issues the respondent expressed or exhibited in adhering to the CARE plan.

(D) Recommendations for next steps, including what ongoing and additional services would benefit the respondent that the county behavioral health agency can facilitate or provide.

(2) At an evidentiary hearing, the respondent shall be permitted to respond to the report submitted by the county behavioral health agency and to the county behavioral health agency's testimony. Respondent shall be permitted to introduce their own information and recommendations. The respondent shall have the right at the hearing to call witnesses and to present evidence as to whether the respondent agrees with the report. The respondent may request either to be graduated from the program or to remain in the program.

(3) The court shall issue an order as follows:



(A) If the respondent elects to be graduated from the program, the court shall order the county behavioral health agency and the respondent to work jointly on a voluntary graduation plan. The court shall schedule a hearing in the 12th month after adoption of the CARE plan for presentation of the graduation plan. The court shall review the graduation plan and recite the terms in open court. The graduation plan shall not place additional requirements on local governmental entities and is not enforceable by the court, except that the graduation plan may, at the respondent's election, include a psychiatric advance directive, which shall have the force of law. Upon completion of the hearing, the respondent shall be officially graduated from the program.

(B) If the respondent elects to remain in the CARE process, respondent may request any amount of time, up to and including one additional year. The court may permit the ongoing voluntary participation of the respondent if the court finds both of the following:

- (i) The respondent did not successfully complete the CARE plan.
- (ii) The respondent would benefit from continuation of the CARE plan.

(C) The court shall issue an order permitting the respondent to continue in the CARE plan or denying respondent's request to remain in the CARE plan, and state its reasons in open court.

(b) The respondent may be involuntarily reappointed to the program only if the court finds, by clear and convincing evidence, that all of the following conditions apply:

- (1) The respondent did not successfully complete the CARE process.
- (2) All services and supports required through the CARE process were provided to the respondent.
- (3) The respondent would benefit from continuation in the CARE process.
- (4) The respondent currently meets the requirements in Section 5972.

(c) A respondent may only be reappointed to the CARE process once, for up to one additional year.

*(Amended by Stats. 2023, Ch. 283, Sec. 16. (SB 35) Effective September 30, 2023. Section conditionally operative as provided in Section 5970.5.)*

**5977.4.** (a) In all CARE Act proceedings, the judicial officer shall control the proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the respondent. Except when there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversarial atmosphere with a view to obtaining the maximum cooperation of the respondent, all persons interested in the respondent's welfare, and all other parties, with any provisions that the court may make for the disposition and care of the respondent. The court and relevant local public agencies shall cooperate to develop a comprehensive set of objectives established to improve performance of the CARE system in a vigorous and ongoing manner. The court is authorized to coordinate and participate in meetings to improve system performance. All evaluations and reports, documents, and filings submitted to the court pursuant to CARE Act proceedings shall be confidential.

(b) The hearings described in this chapter shall occur in person unless the court, in its discretion, allows a party or witness to appear remotely through the use of remote technology. The respondent shall have the right to be in person for all hearings.

(c) Consistent with its constitutional rulemaking authority, the Judicial Council shall adopt rules to implement the policies and provisions in this section and in Sections 5977 to 5977.4, inclusive, to promote statewide consistency, including, but not limited to, what is included in the petition form packet, communications between the CARE Act court and the juvenile court, if applicable, the role of the judiciary to improve system performance, and the process by which counsel will be appointed.

(d) (1) Consistent with paragraph (9) of subdivision (b) of Section 56.10 of the Civil Code, the county behavioral health agency shall include in any report evaluation, or other document filed with the court, the information, including protected health information, necessary to support the determinations, conclusions, and recommendations in the filing. The county behavioral health agency shall not, unless ordered to do so by the court, submit to the court original or photocopied records underlying the information in a report evaluation or other document required or ordered under this subdivision. The county behavioral health agency shall serve an unredacted copy of any report evaluation, or other document filed with the court on the respondent and the respondent's counsel and, with the consent of the respondent, on the supporter in a manner authorized by law. Neither a county nor an employee or agent thereof shall be held civilly or criminally liable for any disclosure authorized or required by this paragraph.

(2) (A) Consistent with paragraph (1) of subdivision (c) of Section 56.10 of the Civil Code, a provider of health care, as defined in Section 56.05 of the Civil Code, or a covered entity, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations, may disclose to the county behavioral health agency any information, including protected health information, and mental health records excluding psychotherapy notes, in its possession about the respondent that is relevant to the county behavioral health agency's provision, coordination, or management of services and supports under this part, including, but not limited to, the

preparation of any required investigations, evaluations, or reports. Such a disclosure is a disclosure for treatment purposes, which may be made only to the extent permitted under Section 164.506 of Title 45 of the Code of Federal Regulations. The information disclosed may include substance use disorder patient records only to the extent permitted by Part 2 (commencing with Section 2.1) of Title 42 of the Code of Federal Regulations.

(B) Consistent with paragraph (9) of subdivision (b) of Section 56.10 of the Civil Code, a provider of health care, as defined in Section 56.05 of the Civil Code, or a covered entity, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations, that filed a CARE Act petition or executed an affidavit included with a CARE Act petition pursuant to paragraph (1) of subdivision (d) of Section 5975 shall provide to the county behavioral health agency any information, including protected health information, and mental health records excluding psychotherapy notes, in its possession about the respondent that may be relevant in connection with an investigation, evaluation, or other report or hearing under this part, or with the provision of services and supports under this part. The provision of information under this paragraph is a disclosure required by law, which may be made only to the extent permitted under subdivision (a) of Section 164.512 of Title 45 of the Code of Federal Regulations. The information disclosed shall include substance use disorder patient records only to the extent permitted by Part 2 (commencing with Section 2.1) of Title 42 of the Code of Federal Regulations.

(C) The county behavioral health agency may apply to the court ex parte for an order requiring any provider of health care, as defined in Section 56.05 of the Civil Code, or any covered entity, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations, to provide to the county behavioral health agency, to the court, or both, any information, including, but not limited to, protected health information, and mental health records excluding psychotherapy notes, in its possession about the respondent that may be relevant in connection with an investigation, evaluation, or other report or hearing under this part, or with the provision of services and supports under this part. The provision of information under this paragraph is a disclosure required by law, which may be made only to the extent permitted under Section 164.512 of Title 45 of the Code of Federal Regulations. The information ordered to be disclosed may include substance use disorder patient records only to the extent permitted by Part 2 (commencing with Section 2.1) of Title 42 of the Code of Federal Regulations.

(D) A provider of health care or covered entity shall not be held civilly or criminally liable for any disclosure authorized or required by this section.

(E) The county behavioral health agency shall notify the respondent of a disclosure under this paragraph as follows:

(i) By mail at the respondent's last known address, if any.

(ii) To the respondent's counsel.

(iii) By including a copy of the notification under clause (i) or (ii) with the next notice of hearing served upon the respondent, if any.

(F) All information, including the facts and records, or summary thereof, shared under this subdivision shall further be disclosed to the respondent and the respondent's counsel, and with the consent of the respondent, to the supporter.

(3) (A) Except as expressly provided, further disclosure or redisclosure of information is not authorized by this subdivision.

(B) Information disclosed to a county behavioral health agency by a provider of health care, as defined in Section 56.05 of the Civil Code, or a covered entity, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations is confidential and not subject to disclosure or inspection under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(C) Disclosure of information under this part shall not be deemed to in any way alter the duties or responsibilities of a county behavioral health agency, of a provider of health care, as defined in Section 56.05 of the Civil Code, or of a covered entity, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations, with respect to the disclosed information under the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), or the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

*(Amended by Stats. 2024, Ch. 640, Sec. 7. (SB 42) Effective September 27, 2024. Section conditionally operative as provided in Section 5970.5.)*

**5978.** (a) A court may refer an individual from assisted outpatient treatment, as well as from conservatorship proceedings pursuant Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 (LPS conservatorship) to CARE Act proceedings. If the individual is referred from assisted outpatient treatment, the county behavioral health director or their designee shall be the petitioner. If the individual is referred from LPS conservatorship proceedings, the conservator or proposed conservator shall be the petitioner pursuant to Section 5974.

(b) A court may refer an individual from misdemeanor proceedings pursuant to Section 1370.01 of the Penal Code to CARE Act proceedings. The county behavioral health director or their designee shall be the petitioner.

**5978.1.** (a) For purposes of this section, “facility” means a facility that provides assessment, evaluation, and crisis intervention pursuant to subdivision (a) of Section 5150, or a designated facility as defined in subdivision (n) of Section 5008.

(b) A facility may refer an individual treated under an involuntary hold pursuant to Articles 1 to 4.7, inclusive, and Article 6 of Chapter 2 of Part 1 of this Division to the county behavioral health agency of the county in which the individual resides, or the county in which the individual is receiving involuntary treatment, if they believe that the individual meets or is likely to meet criteria to qualify for the CARE process, as described in Section 5972.

(1) Referrals pursuant to this section shall be authorized by a licensed behavioral health professional, employed, by or contracted by the facility, who has knowledge of the individual's case and has been involved in the individual's treatment during their involuntary hold. Documentation of the authority for a referral pursuant to this paragraph shall be signed by the licensed behavioral health professional or their designee.

(2) If the facility chooses to make a referral pursuant to subdivision (b), the facility shall make the referral pursuant to this section as soon as clinically indicated as part of the individual's discharge planning process.

(3) The facility referral shall include contact information for the referred individual, including a telephone number and address, if available, and other information as specified by the department.

(c) Within 14 business days of the referral by the facility, the county behavioral health agency shall complete assessment of the individual referred pursuant to this section and shall file a petition pursuant to Section 5975 if the county behavioral health agency determines that the individual meets or is likely to meet criteria for the CARE process and the individual does not engage in voluntary treatment.

(d) In accordance with subdivision (b) of Section 5984, the department shall develop a referral form to be used by the facility and issue guidance regarding the following:

(1) The procedure for a facility to refer an individual to a county behavioral health agency pursuant to this section.

(2) County behavioral health agency data reporting requirements regarding referrals made pursuant to this section include, but are not limited to, total referrals, outcomes of referrals, reason for not filing a petition, length of time from referral to outcome, and services provided for those engaged voluntarily.

(e) The department shall include data regarding referrals made pursuant to this section as part of the annual CARE Act report required by Section 5985.

(f) This section does not authorize a facility to continue an involuntary hold on a referred individual who no longer meets the criteria for involuntary treatment solely for the purpose of allowing the county behavioral health agency to complete its assessment pursuant to subdivision (b).

(g) This section does not affect the ability of a facility to make a referral for assisted outpatient treatment pursuant to Section 5346.

(Added by Stats. 2024, Ch. 640, Sec. 8. (SB 42) Effective September 27, 2024. Section conditionally operative as provided in Section 5970.5.)

**5978.2.** (a) (1) If a petition to initiate CARE Act proceedings has been filed based on a referral pursuant to Section 5978, the CARE Act court and the referring court may communicate with each other regarding the status of respondent's cases and any relevant court orders while the cases are still pending in both courts.

(2) If a petition to initiate CARE Act proceedings has been filed for a respondent within a juvenile court's dependency, delinquency, or transition jurisdiction, the CARE Act court and the juvenile court may communicate with each other regarding the status of respondent's cases and any relevant court orders while the cases are still pending in both courts.

(b) The court may allow the parties to participate in the communication. All communications about the disposition of a respondent's case shall be conducted in court and on the record.

(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subdivision (c), a record must be made of a communication pursuant to this section. The parties shall be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(Added by Stats. 2024, Ch. 640, Sec. 9. (SB 42) Effective September 27, 2024. Section conditionally operative as provided in Section 5970.5.)

