



July 13, 2022

Honorable Chris Holden, Chair
Assembly Appropriations Committee
1021 O Street, Suite 8220
Sacramento, CA 95814

RE: SB 1338 (Umberg & Eggman): The Community Assistance, Recovery, and Empowerment (CARE) Court Program. As amended on June 30, 2022 – CONCERNS

Dear Chair Holden:

On behalf of the state's 58 counties, the California State Association of Counties (CSAC); Urban Counties of California (UCC); Rural County Representatives of California (RCRC); County Behavioral Health Directors Association of California (CBHDA); California Association of Public Administrators, Public Guardians, and Public Conservators (CAPAGPC); and the County Welfare Directors Association of California (CWDA) respectfully request your consideration of the following fiscal estimate and related concerns with SB 1338 (Umberg & Eggman), provided to ensure the successful implementation of the Governor's CARE Act proposal.

As currently drafted, SB 1338 would require that a CARE Act court be established in all 58 counties, which would be the venue for a new civil court process designed to provide effective treatment and long-term plans for those suffering with psychotic disorders. Counties would play a key and substantial role in implementation under SB 1338 as the state's partners in providing critical behavioral health assessments and care, social services, and housing resources. SB 1338 imposes new mandated activities on counties, including but not limited to county behavioral health agencies, which will require both one-time and ongoing resources and funding in order to implement the CARE Act. While the overall impact to counties will depend on factors yet to be determined such as the annual number of CARE Act petitions submitted and the number of qualifying participants, an initial fiscal estimate developed in coordination with affected county departments reflects county costs upon full implementation could range between approximately \$780 million to \$1.3 billion annually based on the following assumptions:

- **Per participant cost:** Excluding behavioral health treatment costs, a per participant cost of \$40,425 includes resource considerations for court appearances, preparation and coordination, care plan development, case management, housing services/supports, and outreach/engagement

by county behavioral health, as well as obligations of county counsel and public defender. These operational costs for the aforementioned factors total \$485 million. Inclusion of new behavioral health treatment costs increases this estimate by an additional \$450 million to \$600 million annually, resulting in a range of estimated costs of \$935 million to \$1.1 billion. Adequate funding for county behavioral health departments is essential to the success of the CARE Act, and counties will continue to advocate for right-sizing behavioral health budgets in response to growing caseloads and responsibilities not addressed through existing funding streams.

- **Caseload:** The aforementioned cost estimate assumes the incremental impact of the state’s estimated caseload of 12,000 total participants; however, we anticipate the current drafting of SB 1338 will likely result in significantly more participants for whom additional funding would be necessary.
- **Court-ordered investigation/evaluation and reporting:** Amendments to SB 1338 on June 16 added a new county agency requirement to conduct an investigation/evaluation and report to the court for CARE Act respondents potentially eligible to participate. Based on cost data for similar activities, the cost for these activities is estimated at \$10,000 per petitioner. This additional cost is not included in the estimated “per participant cost” noted above, and would depend on the number of CARE Act respondents subject to court-ordered evaluation by county agencies, which we anticipate to be significantly greater than the estimated caseload of 12,000 CARE Act participants. According to the 2020 Point-in-Time Continuum of Care homelessness counts, there were 29,615 unsheltered individuals with a severe mental illness. If each of these individuals were referred for an initial investigation/evaluation, the cost would total \$296.2 million.
- **Start-up:** In addition to the ongoing implementation costs of the program, each county will need initial funding prior to implementation to support training, recruiting, and administrative facility preparation. We acknowledge the budget includes \$64.7 million in 2022-23 for the Judicial Council and state departments to implement/administer the CARE Act, contingent upon adoption of statutory changes. Likewise, implementing counties will also benefit from initial funding of \$100 million to support preparation for CARE Act implementation.

In addition to consideration of the estimated county cost impacts identified above, we strongly urge the Legislature to adopt the following recommendations and local investments to help ensure CARE Act courts can be implemented in a practical and achievable manner in all 58 counties.

- **Deliberative Phase-In Implementation Schedule:** While we acknowledge the recent amendments specify an implementation schedule of two cohorts of unspecified counties over two years, further extension of the implementation timeline is necessary, as some counties are not currently in a position to establish a CARE court with existing resources in the timeframe proposed. In addition, further clarity on the factors under consideration for the composition of the county cohorts is needed. The path to success for counties – more importantly, for those who stand to benefit from CARE Act court proceedings and services – must be grounded in a thoughtful, incremental phase-in model, in which counties most prepared to implement are the first adopters. This includes, but is not limited to, consideration of the resources and ability of courts to establish the new processes and procedures without contributing to further court backlogs; the staffing and funding capacity for behavioral health and social services to provide the necessary services to existing and new populations; and local solutions for ongoing housing

shortages, which presents one of the biggest challenges and most critical elements for program success. A thoughtful, phased-in approach also allows for a deeper examination as to how all levels of government best serve this vulnerable population.

- **Resources:** The CARE Act program includes new responsibilities and obligations imposed on counties that require additional resources and ongoing funding, as detailed above, likely at minimum in the hundreds of millions of dollars. Adequate and sustainable funding, as well as start-up funding, is required across multiple departments, including county behavioral health, public defender, county counsel, public guardians and conservators, and county social services. This must build upon the funding necessary for court administration, operation, and staffing. Although the recent amendments specify the appointment of, and potential state funding for, qualified legal services projects to represent respondents in CARE Act proceedings, to the extent the capacity or availability of legal services projects is insufficient to serve this population, this representation will be handled by public defenders. Funding levels must match any further changes to county requirements under the bill, or future changes to the program in subsequent legislation.
- **Fiscal Protections:** The CARE Act proposal must provide protections to counties for any new responsibilities and costs. To ensure counties have the appropriate long-term resources, we recommend fiscal provisions that preserve current services and match existing funding levels, while also providing a mechanism for determining and allocating supplementary annual funding for new county activities and duties required by SB 1338.
- **Sanctions:** Sanctions should be reserved for deliberate and chronic deficiencies, imposed only after meaningful engagement within the existing regulatory framework along with the appropriate procedural safeguards. Sanctions should not begin unless a county has sufficient housing, available services, and other resources to provide the necessary support and services to respondents, and not until after the program has been fully funded and implemented statewide. Ultimately, sanctions are counterproductive as they reduce the resources of the very system best positioned to assist CARE court respondents.
- **Housing:** As noted above, housing is imperative for the successful treatment of those living with severe mental illness and foundational to addressing the larger problem of homelessness across California. Further, various housing types are necessary to meet the individual needs of program participants. To ensure that the state's recent housing investments are available to serve the CARE Act population, we support prioritizing the \$1.5 billion in Bridge Housing funding for counties and tribes recently approved in the budget, but with a noncompetitive allocation process. This will help ensure resources are accessible for respondents immediately upon the establishment of a CARE court. Counties also support the aim of past amendments to ensure that all housing resources in a given area are available to respondents – including city or Continuum of Care-funded housing – however, further clarification related to these provisions is necessary.

Thank you for your consideration and shared concerns regarding phased-in implementation, resources, funding, sanctions, and housing. We respectfully urge your committee to continue working with us to refine the bill's provisions and maximize success for the CARE Act, and most important, the people it intends to serve. Should you have any questions regarding our concerns or implementation challenges by locality, please do not hesitate to contact our organizations.

Sincerely,



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