



April 18, 2022

The Honorable Richard Pan  
Chair, Senate Health Committee  
1021 O Street, Suite 3310  
Sacramento, CA 95814

**RE: SB 1338 (Umberg): The Community Assistance, Recovery, and Empowerment Court Program  
As Amended on April 7, 2022 – CONCERNS  
Set for Hearing on April 27, 2022 – Senate Health Committee**

Dear Chair Pan,

On behalf of California'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 of California (CWDA) write today to express our members' concerns regarding Senate Bill 1338 as amended on April 7 by Senator Thomas Umberg.

The measure as amended reflects Governor Newsom's vision for creating a new civil court process to reach and treat individuals living with untreated schizophrenia spectrum and psychiatric disorders. These new Community Assistance, Recovery, and Empowerment (CARE) Courts would work with public defenders, county behavioral health, and trained "supporters" to assist individuals with treatment, medication, and housing.

Our Associations understand that the language within SB 1338 represents a work in progress, and we appreciate the ongoing conversations with this Committee, the Newsom Administration, and other stakeholders on the details. We share our collective analysis below with the understanding that additional collaboration and technical work is required. Our organizations may also submit additional stand-alone comments addressing specific concerns and technical details as well.

As outlined in SB 1338, CARE Courts require significant engagement from counties – especially county behavioral health and county public defenders – from beginning to end. Our members have raised the following questions, both legal and policy, regarding the language in SB 1338:

- Will local governments or non-affiliated providers be allowed to refer an individual to CARE Court, and will petitioners of any category have the right of legal representation?

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- How will the proposed statutory CARE Court timelines be integrated so that they are consistent and achievable?
- How will the processes related to petitioning, settlement, development of a CARE Court treatment plan, and graduation or failure from the program be refined?
- Will the required levels of evidence be standardized throughout the process?
- Will continuity of services be ensured upon graduation?
- How many times might an individual participate in CARE Court over their lifetime?
- Will additional details regarding the provision of housing by all levels of government, including counties, cities, and Continuums of Care, be included?
- How will the state estimate and provide resources for the integral role of counties in CARE Courts, including state mandated services and any new responsibilities subject to Proposition 30?
- How will CARE Court be evaluated? Who petitions, how many participants, what are the outcomes and how does CARE Court alleviate or increase impacts on other systems such as public safety, public guardians/conservators and adult protective services?

Counties believe CARE Courts could serve as a new tool to assist those who cannot help themselves as a result of their mental illness. Because of the vulnerability of the target population and the myriad questions raised by our members as well as other stakeholders, we respectfully suggest the exploration of three additional questions by your Committee:

1. Is the civil court system the proper venue for engaging those who initially lack medical decision- making capacity?
2. Are CARE Courts potentially redundant considering the robust Mental Health, Drug, and other specialty courts currently operating in most counties?
3. Could the state implement CARE Courts as an opt-in pilot project? This third suggestion would allow counties, the courts, and the Legislature to test and improve the process, gauge the resources required for scalable success, and gather data to determine if the outcomes align with the policy intent.

Additionally, we must also express our strong opposition to the notion of proposed penalties and court-ordered receivership for counties that fail to meet the court's undefined expectations under SB 1338. The ability of county behavioral health to respond to increased demand for clinicians to engage in CARE Court, or for services that go beyond existing Medi-Cal entitlement services, will depend entirely on the state's willingness to fund these new activities. Allowing the court to order services beyond counties' existing contracted obligations under Medi-Cal and other regulatory and statutory requirements could result in fines, penalties and corrective action across multiple existing regulatory frameworks and sets a dangerous precedent for a publicly funded safety net system acting as an arm of the state. Also, penalizing the very system that is attempting to provide the services is counterproductive at best.

Our Associations are working diligently to identify and estimate county responsibilities and potential costs to assist with a successful implementation regardless of scale. We each also submitted extensive comments to the California Health and Human Services Agency in late March on CARE Courts before SB 1338 was in print; we have attached those documents to provide additional detail related to county concerns.

Counties are committed to working with all stakeholders to implement CARE Courts in a conscientious and sustainable manner to achieve Governor Newsom's vision of early intervention and assistance for some of the most vulnerable Californians. We thank you for the opportunity to provide these comments and look forward to continuing working together on SB 1338.

Sincerely,



Jacqueline Wong-Hernandez  
Deputy Executive Director for Legislative Affairs  
CSAC  
[Jwong-hernandez@counties.org](mailto:Jwong-hernandez@counties.org)



Kelly Brooks-Lindsey  
Legislative Advocate  
UCC  
[kbl@hbeadvocacy.com](mailto:kbl@hbeadvocacy.com)



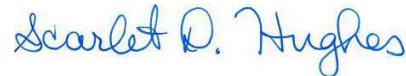
Mary-Ann Warmerdam  
Senior Vice President of Governmental Affairs  
RCRC  
[mwarmerdam@rcrcnet.org](mailto:mwarmerdam@rcrcnet.org)



Cathy Senderling-McDonald  
Executive Director  
CWDA  
[csend@cwda.org](mailto:csend@cwda.org)



Michelle Cabrera  
Executive Director  
CBHDA  
[csend@cwda.org](mailto:csend@cwda.org)



Scarlet Hughes  
Executive Director  
CAPAPGPC  
[shughes@capapggpc.org](mailto:shughes@capapggpc.org)

- cc. Honorable Members, Senate Health Committee  
Ana Matosantos, Cabinet Secretary, Office of Governor Newsom  
Jessica Devencenzi, Deputy Legislative Secretary, Office of Governor Newsom  
Kim McCoy Wade, Senior Advisor on Aging, Disability, and Alzheimer's, Office of Governor Newsom  
Jason Elliott, Senior Counselor, Office of Governor Newsom  
Richard Figueroa, Deputy Cabinet Secretary, Office of Governor Newsom  
Tam Ma, Deputy Cabinet Secretary, Office of Governor Newsom  
Dr. Mark Ghaly, Secretary, California Health and Human Services Agency  
Corrin Buchanan, Deputy Secretary for Policy and Strategic Planning, California Health and Human Services Agency  
Stephanie Welch, Deputy Secretary of Behavioral Health, California Health and Human Services Agency  
Michelle Baass, Director, Department of Health Care Services  
Susan DeMarois, Director, Department of Aging  
Martin Hoshino, Administrative Director, Judicial Council  
Marjorie Swartz, Policy Consultant, Office of pro Tem Atkins  
Reyes Diaz, Principal Consultant, Senate Health Committee  
Allison Whitt Meredith, Counsel, Senate Judiciary Committee  
County Legislative Coordinators  
County Caucus