



September 6, 2024

The Honorable Gavin Newsom  
Governor, State of California  
1021 O Street, Suite 9000  
Sacramento, California 95814

**RE: Senate Bill 1400 (Stern): Criminal procedure: competence to stand trial.**

Dear Governor Newsom:

On behalf of the state's 58 counties, the California State Association of Counties (CSAC), the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), and the County Behavioral Health Directors Association of California (CBHDA) would like to express our outstanding concerns regarding the late amendments to the Community Assistance, Recovery, and Empowerment (CARE) Act data collection and reporting requirements included in Senate Bill (SB) 1400 as passed by the Legislature. We share extreme disappointment with the lack of engagement from your Administration with our organizations or our counties on these substantial changes during the final week of the legislative session.

While we appreciate the final set of amendments to the bill, which reflect modest improvements, the substantive changes made to the bill on August 26 left no time to adequately review and respond to such significant policy changes that have a direct impact on all 58 California counties. Alternatively, amendments of this nature would have benefited had they gone through the full legislative process, or even considered through a transparent and inclusive process such as a working group, with recommendations submitted to the Legislature by January 10, 2025.

Regretfully, the added sections crossed by the legislature's amendment deadline left inadequate time for comprehensive policy and fiscal committee review or any meaningful stakeholder engagement. To date, there has been no justification for expediting these amendments, nor has a clear explanation been provided to counties for the increased requirements, despite counties and our related county associations meeting and communicating regularly with the California Health and Human Services Agency (CalHHS) and representatives from your office regarding CARE Act implementation. The significant revisions are of particular concern given that counties are primarily responsible for implementing the Act's provisions, but again, were never consulted during the development of the new provisions and were not engaged until outreach from our county associations, after the amendments were already in print. This is both troubling and perplexing given our regularly scheduled meetings with your

Administration regarding the CARE Act, including the CARE Court Implementation Working Group, the CARE Court Data Collection, Reporting and Evaluation Ad Hoc Group, frequent meetings with Cohort 1 counties, and monthly meetings with CalHHS Agency and county associations.

The CARE Act is an entirely new program that is still in its infancy. With nine counties currently implementing the CARE Act, and statewide implementation rapidly approaching by December 1, 2024, making any sudden and expansive changes as all counties are coming online disrupts planning and creates additional challenges at a crucial juncture when counties need stability, consistency, and partnership from the state. The intense level of planning, resources, and training required to stand up the first cohort of eight counties alone has taken over a year since the passage of SB 1338 (Chapter No. 319, Statutes of 2022). If this measure is signed into law, counties will be faced with yet another mandate to develop the guidance, capacity, and necessary data elements, creating additional pressure on overburdened county departments and their dedicated staff who are working in the community and our courtrooms every day.

Counties understand the value of data collection and reporting and are invested in the success of the CARE Act. We strongly believe that appropriate reporting will highlight the positive impact that the Act will have on Californians. However, our associations are concerned with the new and expanded data and reporting requirements included in SB 1400, and have identified the following concerns:

- **Expanded tracking and reporting of all active and former CARE participants.** The bill requires county behavioral health agencies to report on the following data elements for an expanded group of active and former participants in the CARE process. While the last amendments specify a maximum tracking period of 36 months following engagement in CARE Act elective services, agreement or plan (versus an unspecified period of time reflected in the prior version of the bill), we continue to have concerns that these data elements will be required even if the data is not administratively available to counties:
  - Services and supports ordered and provided, and ordered but not provided
  - Housing placements
  - Treatments continued and terminated
  - Substance use disorder rates and rates of treatment
  - Detentions and other LPS involvement
  - Criminal justice involvement
  - Deaths, including cause of death

Currently, CARE Act participant data is limited to tracking individuals with a CARE plan for at least one year following termination of their plan. The last amendments modify and expand these existing requirements by not only including all active and former participants but also by extending the time period to track these elements and expanding the tracking of former CARE Act participants beyond those with a CARE plan to also include those with CARE agreements or those engaged in CARE Act elective services. Tracking former participants' activities will not only require additional

county administrative resources, but it also raises considerable policy questions around imposing potentially invasive tracking requirements for an extended period of time on individuals who are no longer under a CARE plan.

- **“Likely eligible” and “Potentially eligible” terms undefined.** The bill requires counties to collect and report on data and information regarding individuals who are “likely eligible CARE Act participants,” or “likely eligible for the CARE process,” although these terms are not defined. This could be broadly interpreted to impact a significant number of individuals who may have received county outreach or are receiving county behavioral health services. As a result, county behavioral health agencies could be hampered by far-reaching and resource-intensive work beyond what is currently required. While the final set of amendments replaced the undefined term “potentially eligible” with “likely eligible” – “likely eligible” is still undefined and will require further clarification. Also, we note there is a drafting error with one remaining reference to “potentially eligible” that should also be corrected.
- **New requirements to track outreach and engagement/services for those voluntarily engaged.** The bill requires counties to track the type, format, and frequency of outreach and engagement activities to referrals and petitioners, and track – without time limitation – the services provided to those who are voluntarily engaged following a referral to county behavioral health. While counties agree these data elements may assist with highlighting the intense efforts needed to engage individuals, and the positive results outside of direct CARE Act participation, we note that collecting and reporting on the volume of these encounters – which are not Medi-Cal reimbursable activities – and services to those voluntarily engaged would add significant reporting and fiscal impacts on counties that are not already collecting this information.

Counties remain fully committed to the timely implementation of the CARE Act in partnership with the state. As partners, we would appreciate consideration of the issues noted above to be further addressed through a collaborative approach. This includes meaningful stakeholder engagement, as encouraged by the Legislature, to ensure any new data collection and reporting elements are effective and the process is transparent.

Respectfully,



Jacqueline Wong-Hernandez  
Chief Policy Officer  
CSAC  
[jwh@counties.org](mailto:jwh@counties.org)



Michele Doty-Cabrera  
Executive Director  
CBHDA  
[mcabrera@cbhda.org](mailto:mcabrera@cbhda.org)

Senate Bill 1400 (Stern)  
September 6, 2024  
Page 4



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



Sarah Dukett  
Policy Advocate  
RCRC  
[sdukett@rcrcnet.org](mailto:sdukett@rcrcnet.org)

cc: Angela Pontes, Chief Deputy Legislative Secretary, Office of the Governor  
Jith Meganathan, Deputy Legislative Secretary, Office of the Governor  
The Honorable Henry Stern, California State Senator