

## Community Assistance, Recovery, and Empowerment Act

### Legal Roles in the CARE Act

The Community Assistance, Recovery, and Empowerment (CARE) Act established a new civil court process.<sup>1</sup> People who have specific mental health disorders and meet other criteria are eligible for the CARE Act process. The goal of the process is to link these individuals to a broad range of services and supports to meet their individual needs through a CARE agreement or a CARE plan. This brief provides information about specific legal roles throughout this process, including counsel representing the respondent, judicial officers, and legal representation for the petitioner.

### Respondent's Counsel

Throughout the CARE process, an attorney (also known as "respondent's counsel") is provided to the respondent at **no cost**. The information below details the who, when, and what of the respondent's counsel.

*Disclaimer: Local courts may adopt their own rules for appointing counsel.*

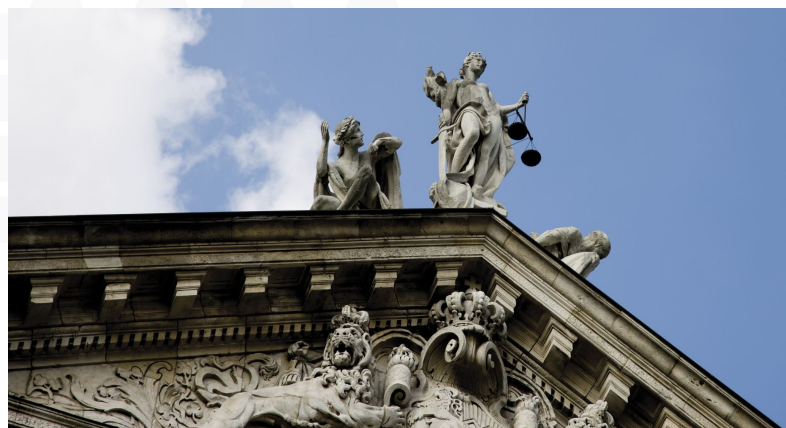
#### Who may serve as respondent's counsel?

Generally, the court will assign an attorney from a qualified legal services project (QLSP), also known as Legal Aid, to represent respondents. If a QLSP does not agree to accept, or is not available in the county, a public defender (state-funded attorney) will be appointed. Once appointed, the roles of the QLSP and public defender are the same. Respondents also have the option to choose their own attorney and hire a private attorney at their own expense.

**"Respondent" refers to the person identified in a petition as someone who would be eligible for the CARE process and who would benefit from the services and treatment.**

#### When is counsel appointed?

An attorney is appointed after the court has reviewed the petition and has determined that the respondent may be eligible for the CARE process.



<sup>1</sup> [California Welfare and Institutions Code \(W&I Code\) sections 5970-5987](#)

## Respondent’s Counsel (continued)

### What is the role of the respondent’s counsel?

The respondent’s counsel should represent them for all purposes related to the CARE process. The following duties may be included in their role:

- Helping respondent work with the county behavioral health agency and respondent’s supporter (as applicable) to get behavioral health treatment.
- Representing respondent in any court proceedings, which may include responding to reports and testimony, presenting evidence, calling witnesses, and filing court documents.
- Advising respondent on the CARE process, on CARE agreements and CARE plans, including working with respondent, supporter (as applicable), and the county behavioral health agency.
- Appearing on respondent’s behalf in court (if respondent chooses to not appear).

## Judicial Officers

Judicial Officers—also known as judges—in the CARE process are responsible for making sure that court proceedings are conducted in a collaborative way. The goal is to encourage participation and engagement from all parties.

Throughout the CARE process, the judge has the following responsibilities:

- Explain to respondents their rights at each hearing.
- Set hearings and oversee court processes.
- Determine eligibility.
- Appoint counsel for the respondent, at no cost.
- Review documents, including the petition, reports, the clinical evaluation, CARE plans/agreements, and the graduation plan.
- Evaluate what services were or were not provided, and issue orders to support respondent’s access to services, as needed.
- Determine whether respondent should graduate from the CARE process.



## Petitioner's Counsel

**"Petitioner" refers to the person who files a petition asking the court to consider if someone (the "respondent") is eligible for CARE services and start the CARE process.**

The petitioner may be either the county behavioral health agency or other individuals who know the respondent, such as a family member, a roommate, or someone who has had frequent recent contact with the respondent (e.g., an outreach worker or a first responder).

### **Petition filed by a county behavioral health agency.**

A county behavioral health agency is not required, but may choose, to be advised by counsel regardless of whether the petition is filed by a county behavioral health agency or another eligible petitioner.

### **Petition filed by individuals who know the respondent.**

A family member, roommate, outreach worker, first responder, or another eligible individual may be the petitioner. It is not required that the petitioner have an attorney help them file the petition, but they may choose to do so at their own expense.

Self-Help Centers are available to guide these petitioners, but the courts and the Self-Help Centers do not provide legal advice.

Early in the process, the county behavioral health agency will take the place of the original petitioner. Certain original petitioners may be allowed to continue to participate, and they can choose to hire counsel, again at their own expense.

## Additional Resources

- Consider viewing the materials on [CARE-Act.org](https://www.careact.org) :
  - [CARE Act 201: The Client's Journey Through the CARE Act](#)
  - [CARE Act Resources for Petitioners](#)
- For more information on the CARE Act Petition Process and Petition Forms, please visit the Information for [CARE Act Petitioners section](#) on the CalHHS website.
- Judicial Council of California Rules and Forms, and [Fact Sheet](#)
- Self-Help Center [locator](#)

## Statute Language & Citation

Relevant language from statute, including the citation to the statute section:

- Court process:
  - [W&I Code section 5977](#)
  - [W&I Code section 5977.1](#)
  - [W&I Code section 5977.2](#)
  - [W&I Code section 5977.3](#)