

## Guest Column: Board opposes proposal

June 27, 2022



Dear Senators Umberg and Eggman:

The Del Norte County Board of Supervisors writes to express several concerns about SB 1338's potential impacts on the county's mental health and criminal justice systems, as well as the county's general fund.

The bill represents a significant and welcome attempt to address a shortcoming in the system that has been known and understood for some time: there are many people who cannot function well in society due to mental illness, but who are not "gravely disabled" under the Lanterman-Petris-Short Act.

These are people who, without intervention of some kind, will often continue to deteriorate until they meet the criteria for a conservatorship. This slow descent into grave disability often involves child welfare intervention, jail stays and other law enforcement contacts, homelessness, and increasingly frequent psychiatric holds, until finally an acute psychiatric facility will recommend a conservatorship.

The attempt to give counties the tools to be proactive to prevent crises before they happen is greatly appreciated however, in its current form, it is our view that the proposal misses the mark in several ways which are likely to exacerbate, rather than relieve, the already untenable pressure on mental health services and facilities in rural communities.

Through this letter we intend to offer our local perspective on the proposal and to clearly identify several concerns we have with the bill, with the sincere hope that these concerns can be accounted for as your proposal is further developed:

1. There are not enough qualified candidates currently applying for jobs as clinicians, public defenders and deputy county counsels (i.e. those positions who will be responsible for the implementation of the CARE Court program) in rural communities. The simple fact is that many rural communities such as Del Norte County happen to also be behavioral health workforce shortage areas and medically underserved areas.

Here in Del Norte County we already suffer from significant recruitment and retention challenges for those positions that will be principally tasked with responsibilities under the CARE Court program.

The Del Norte County Department of Health and Human Services currently has six allocations for licensed clinicians. Over the past two years the department has had a turnover rate exceeding 30% for these licensed clinician positions and recruitments take an average of four months to fill a vacancy.

Presently, the licensed clinician allocations are 50% vacant. Similarly, in the County Behavioral Health Branch there are 10 vacancies, representing a 23% vacancy rate and the department faces similar challenges with turnover.

Currently, Del Norte County contracts with four local public defense attorney for public defender services. It is our understanding that there are five additional private defense attorneys who appear in court with regularity.

Contracting for these four public defenders is a substantial cost to the County's limited General Fund with no support from the state. Should this limited pool of public defenders become more encumbered in their duties resulting from the additional assistance to individuals referred to the CARE Court, this will diminish the ability of the public defenders in providing their normal public defense services.

The pool of practicing private defense attorneys is, as noted, constrained and augmenting public defender services in order to accommodate the additional demand from the CARE Courts is unlikely given the lack of interest understood from those other attorneys.

Similarly, the Office of County Counsel is allocated three attorney positions (including the County Counsel) and is presently operating with one vacancy. The third attorney classification in the office of County Counsel has remained vacant for months and the ongoing recruitment for this vacancy is showing no indication of being successful.

Attracting qualified attorneys to work in our remote, rural county has historically been challenging and the challenge of recruiting qualified legal defense counsel and deputy county counsels will only be exacerbated by this new statewide mandate upon counties.

Upon examination of the proposal it is this Board's opinion that the CARE Courts will very likely have the unintended consequence of increasing the demand for these already in-demand positions throughout the

state, which will only increase their scarcity in rural counties such as ours that already struggle with recruitment.

Moreover, the fact that public defenders and deputy county counsels are unfunded county expenses further aggravates this workforce shortage crisis. In order for this proposal to be tenable the state must recognize this currently unfunded cost on counties and not only include measures to allocate funds to counties for local public defender and deputy county counsel services but also make serious provisions for addressing behavioral health workforce shortage issues, particularly in rural counties.

As stated by RCRC in their letter dated March 25, 2022, to Dr. Mark Ghaly, on the CARE Court proposal: “If rural communities do not have the adequate providers or county mental health workers to provide expanded services, this program is being set up for failure in rural regions and disappointing those most in need of these services.”

2. While the CARE Court process will increase the demand on limited resources, it also threatens to punish counties for failing to find those resources. If counties cannot fulfill the obligations of SB 1338, they face substantial fines and receiverships. The punishment for not having sufficient resources is thus to lose more resources.

On the other hand, if the respondent fails to comply with the case plan, the county may have to conserve them—an enormous commitment of resources. This will lead to counties trying to avoid using the CARE Courts, rather than eagerly and enthusiastically embracing the process.

Since the evaluations will be done by county behavioral health employees, there will inevitably be some pressure on these clinicians to find that CARE Court referrals do not meet criteria.

At a minimum, we feel that consideration should be provided, relating to penalties, when counties are unable to meet the requirements of CARE Court plans if those factors limiting the services are beyond a county’s control.

3. According to County DHHS, the most recent Point in Time (PIT) survey identified a total of 462 individuals in Del Norte County experiencing homelessness. While this might seem to be a low population, it is critical to recognize that Del Norte County’s total population (including Pelican Bay State Prison) is less than 28,000.

More concerning than the high per capita population of homeless individuals in our County is the fact that this population has increased 86% over the last two years (it was 183 at last full PIT count in 2020).

As you are no doubt aware, there are throughout the state a great number of gravely disabled people who reside in homeless camps instead of hospitals because there are not enough resources to conserve them. This is, without a doubt, also the case in Del Norte County. Due to the resource constraint realities already discussed in this letter, public guardians tend to focus on those people who are dangerous, rather than those who simply cannot provide themselves with food, clothing and shelter.

Under the CARE Court scheme, the breadth of potential petitioners is quite wide and it will, consequently, be less possible for counties to focus their limited resources on those most in need. Rather, resources will be directed more by the petitioners than counties.

It is difficult to maintain morale among understaffed, underfunded, underpaid mental health workers. Increasing the staff responsibilities without increasing the resources, while simultaneously decreasing their discretion to focus on those most in need, will only make scarce employees scarcer compounding the workforce shortage concerns already stated.

4. With regard to housing, Del Norte County is already struggling to find facilities to take 5150's and conserved individuals as well as other population groups requiring housing assistance from the County.

Following a theme thus far already developed in our concerns as stated in this letter, the CARE Court program is, in the area of housing, requiring that resources be accommodated which are already in severely short supply in Del Norte County. To wit, last year, four transitional homes closed in Del Norte County, which resulted in a loss of approximately 25 beds for our clients.

Currently, we only have access to 20 transitional beds and typically these beds are full. Most recently we have had to rely on using hotel rooms to meet this need. The cost of a hotel room for one client can range up to \$3,800 a month. Transitional beds are usually \$400-500 a month depending on the location.

County DHHS currently has 17 families in temporary housing through the CalWORKs Housing Support Program, Family Stabilization Program, and Housing and Disability Advocacy Program who are waiting for placement in permanent housing.

DHHS continues to provide temporary non-congregate shelter for 9 individuals in motel rooms for the Project Room Key Program. There are an additional 10 individuals on the waiting list for rooms at this time and we do not expect to see those numbers go down.

Generally, the availability for housing rentals is low in Del Norte County, particularly in affordable units under \$1,000 per month. Staff regularly work with local realtors and property managers, as well as monitor social media sites for available rentals. There are large waiting lists at the subsidized housing complexes in the community, which estimate multiple years of waiting for permanent housing.

While the County's most recently adopted Housing Elements have been certified by the Housing and Community Development Department as meeting the state's identified Regional Housing Need Allocation for the jurisdiction, the actual development of housing has lagged due to developers not viewing our County as a desirable market for the initiation of new housing projects.

As noted above, homelessness has exploded in Del Norte County. It is well established that an unhoused individual is less likely to be successful in mental health or substance use disorder treatment. A case plan that cannot identify housing is doomed to fail. As such, the CARE Court proposal must provide guaranteed incentives to stimulate the creation of more housing in communities such as Del Norte County.

5. The CARE plans are silent as to employment. The court should have discretion to include in any CARE plan any reasonable service likely to help the respondent change the circumstances of their life and break the typical cycle of poverty and mental illness.

6. If a person refuses to comply with their CARE plan, there is no accountability. The failure to comply with the plan will lead to a conservatorship investigation. But one may refuse to comply with a treatment plan without being gravely disabled. If they are gravely disabled, they should be considered for a conservatorship regardless of whether they are complying with a CARE plan.

The bill simply has no meaningful teeth. But rather than a punishment, there should be some incentive for complying with the CARE Plan. If someone is too mentally ill to be competent to stand trial on a misdemeanor, the promise of having that charge dropped, or the fear of being conserved, is probably too far away and abstract to be a meaningful incentive to comply. A small stipend would be a powerful incentive, and with the State's current surplus, it would be easy to provide.

For the concerns stated in this letter this Board cannot support SB 1338 at this time. As previously stated, we do recognize and applaud your intentions in addressing this very real issue to our community and many others throughout the state, however there are simply too many significant, unaddressed impacts that require more development of concept.

We believe that if the concerns provided here can be accommodated that this proposal would be very beneficial to communities such as Del Norte County. As such, we have tried to not only state our concerns but to be constructive in our critique.

In that same spirit of a solution-focused approach we wish to endorse the suggestion of the joint counties coalition (CSAC, RCRC, et al) in their previous comment letter, dated April 18, 2022, in which they have suggested a solution for the CARE Courts to be implemented as an opt-in pilot project in order for the program to be phased-in in a thoughtful, transparent, and incremental manner.

This Board supports the stated reasoning for that approach in that it "would allow counties, the courts, and the Legislature to test and improve the process, gauge resources required for scalable success, and gather data to determine if the outcomes align with the policy intent."

If that approach is ultimately determined to be the most wise and the path forward for this proposal, we would strongly suggest that a range of counties (i.e. small/medium/large populations, urban/rural, coastal/inland, etc.) be included so that impacts can be fairly assessed across a spectrum of counties.

Del Norte County is very interested in working towards solutions in this area and we welcome further engagement. We thank you for the opportunity to express our concerns and look forward to additional opportunities for dialog on this matter.

Regards,

Darrin Short Vice-Chairman

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*Editor's note: This letter is printed in its entirety. One typo was corrected, and numerous paragraph breaks were added to make the extremely long, yet informative, paragraphs easier to read.*