

## RÉSUMÉ DIGEST

ACT 329 (HB 589)

2021 Regular Session

Duplessis

Existing law, Part III-A of Chapter 1 of Title 28 of the La. R.S., provides relative to civil involuntary outpatient treatment for persons suffering from mental illness; for petitions for court orders authorizing involuntary outpatient treatment; and for procedures of courts with respect to such petitions.

New law changes the term "patient" to "respondent" throughout existing law.

New law deletes prior law which required that a person's history of noncompliance with mental health treatment result in certain outcomes in order to qualify him for court-ordered involuntary outpatient treatment.

New law provides that the person's history of noncompliance with mental health treatment, ipso facto, qualifies him for court-ordered involuntary outpatient treatment pursuant to existing law and new law.

Prior law provided that a petition to obtain an order authorizing involuntary outpatient treatment may be initiated by several authorized persons including any interested person through counsel with written concurrence of the coroner in the jurisdiction in which the person is found. New law deletes from prior law the requirement for written concurrence of the coroner.

New law requires the coroner in the jurisdiction in which the respondent was found to provide a written concurrence to the allegations for the respondent's involuntary outpatient treatment if ordered by the court.

New law defines "interested person" as anyone of legal age who has an interest in the outcome of a particular case, which may include but shall not be limited to any adult relative or friend of the respondent, any official or representative of a public or private agency, corporation, or association that is concerned with the respondent's welfare, or any other person found suitable by the court.

New law adds to existing law items of information to be included in petitions to the court for orders authorizing involuntary outpatient treatment.

New law requires that as soon as is practical after the filing of the petition for an order authorizing involuntary outpatient treatment, the court shall review the petition and supporting documents and determine whether there exists probable cause to believe that the respondent is suffering from mental illness which renders him unlikely to voluntarily participate in the recommended treatment and, in view of the treatment history and current behavior of the respondent, he is in need of involuntary outpatient treatment to prevent a relapse or deterioration which would be likely to result in him becoming dangerous to self or others or gravely disabled as defined in existing law.

New law requires that if the court determines that probable cause exists, it shall appoint a physician, psychiatric mental health nurse practitioner, or psychologist to examine the respondent and to furnish a report provided for in existing law (Physician's Report to Court) and testify at the hearing.

New law requires that the report set forth specifically the objective factors leading to the conclusion that the person has a mental illness that renders him unlikely to voluntarily participate in the recommended treatment and, in view of the treatment history and current behavior of the respondent, he is in need of involuntary outpatient treatment to prevent a relapse or deterioration which would be likely to result in harm of self or others or him becoming gravely disabled defined in existing law.

New law stipulates that the report shall also include recommendations for a treatment plan.

New law revises existing law concerning procedures of courts with respect to petitions for orders authorizing involuntary outpatient treatment.

New law adds to existing law a requirement that each court keep a record of the cases relating to persons with mental illness coming before it pursuant to existing law and the disposition of those cases.

New law provides that all records maintained in courts pursuant to existing law and new law shall be sealed and available only to the parties to the case, unless a court, after a hearing held with notice to the respondent, determines such records should be disclosed to a petitioner for cause shown.

New law requires that any such hearing shall be closed to the public.

New law affords the respondent's designee a reasonable opportunity to establish a treatment plan that expresses the respondent's preferences to the extent that the preferences are in the best interest of the respondent.

New law revises existing law concerning written treatment plans for involuntary outpatient treatment.

New law deletes prior law which provided all of the following:

- (1) If the petitioner is affiliated with a hospital that operates an involuntary outpatient treatment program that is willing to treat the patient, the court order shall direct the hospital to provide all available categories of involuntary outpatient treatment services.
- (2) If the hospital does not have such a program or if the patient is discharged to a different local governing entity, or if the director of the local governing entity has filed the petition and certified services are available, the court order shall require the appropriate director to provide all available categories of involuntary outpatient treatment services.

New law deletes prior law which provided that if either party alleges noncompliance under a written treatment plan, a judicial review can be scheduled and all persons listed in existing law, R.S. 28:69(A), are to receive notice.

New law adds a requirement stating that when a physician, psychiatric mental health nurse practitioner, or psychologist determines the respondent has failed to comply with the ordered treatment, the local governing entity, case manager, or treatment provider shall make reasonable efforts to solicit the compliance of the respondent.

New law revises existing law concerning noncompliance with written treatment plans and hearings on such noncompliance.

New law stipulates that assistive outpatient treatment proceedings conducted pursuant to existing law and new law shall be exempt from charges for filing fees or taxing of court costs.

Effective August 1, 2021.

(Amends R.S. 28:66, 67(intro. para.) and (1)-(4), 68, 69(A)(2) and (B)-(F), 70(A), (B)(1), (D)(2)(intro. para.), (E), and (F), 71, 72(A), 73, and 75; Adds R.S. 28:69(G) and (H) and 77)