

2017 Regular Session

SENATE BILL NO. 185

BY SENATOR LUNEAU

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL PROCEDURE. Provides relative to physical or mental examinations of certain persons. (8/1/17)

1 AN ACT  
2 To amend and reenact Code of Civil Procedure Art. 1464, relative to physical or mental  
3 examinations of persons in custody or under the legal control of a party; to limit the  
4 number of examinations to which a person must submit; to provide relative to  
5 videotaping of examinations under certain circumstances; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Article 1464 is hereby amended and reenacted  
9 to read as follows:

10 Art. 1464. Order for physical or mental examination of persons

11 A. When the mental or physical condition of a party, or of a person in the  
12 custody or under the legal control of a party, is in controversy, the court in which the  
13 action is pending may order the party to submit to a physical or mental examination  
14 by a physician or to produce for examination the person in his custody or legal  
15 control, except as provided by law. In addition, the court may order the party to  
16 submit to an examination by a vocational rehabilitation expert or a licensed clinical  
17 psychologist who is not a physician, provided the party has given notice of intention

1 to use such an expert. The order may be made only on motion for good cause shown  
 2 and upon notice to the person to be examined and to all parties and shall specify the  
 3 time, place, manner, conditions, and scope of the examination and the person or  
 4 persons by whom it is to be made. **The examination shall not be referred to as an**  
 5 **"independent" examination in the presence of a jury.**

6 **B. Regardless of the number of defendants, a plaintiff shall not be**  
 7 **ordered to submit to multiple examinations by multiple physicians within the**  
 8 **same field of specialty.**

9 **C. The party to be examined shall have the right to have a person of his**  
 10 **choosing present during the examination. If the party to be examined is under**  
 11 **the age of eighteen years, the party shall have the right to have the entire**  
 12 **examination videotaped. The party requesting the examination shall pay all**  
 13 **costs associated with the examination, including but not limited to the cost of the**  
 14 **videographer.**

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Alden A. Clement Jr.

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## DIGEST

SB 185 Original

2017 Regular Session

Luneau

Present law provides that when the mental or physical condition of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a physician or to produce for examination the person in his custody or legal control, except as otherwise provided by present law. Present law further provides that the court may order the party to submit to an examination by a vocational rehabilitation expert or a licensed clinical psychologist who is not a physician, provided the party has given notice of intention to use such an expert. Present law further provides that the order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and must specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

Proposed law retains present law and adds that the physical or mental examination provided for by present law cannot be referred to as an "independent" examination in the presence of a jury.

Proposed law provides that regardless of the number of defendants, a plaintiff cannot be ordered to submit to multiple examinations by multiple physicians within the same field of specialty.

Proposed law provides that the party to be examined has the right to have a person of his choosing present during the examination. Proposed law further provides that if the party to be examined is under the age of 18 years, the party has the right to have the entire

examination videotaped. Proposed law further provides that the party requesting the examination must pay all costs associated with the examination, including but not limited to the cost of the videographer.

Effective August 1, 2017.

(Amends C.C.P. Art. 1464)