

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)

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

A. 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 provided by law. In addition, 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

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. The party shall have the right to have**
 11 **the entire examination videotaped. The party requesting the examination shall**
 12 **pay all costs associated with the examination, including but not limited to the**
 13 **cost of the videographer.**

The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry G. Jones.

DIGEST

SB 185 Engrossed

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 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)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Removes limitation on videotaping to persons being examined who are under the age of 18.