

2018 Regular Session

SENATE BILL NO. 72

BY SENATOR MARTINY

MENTAL HEALTH. Provides relative to the execution of an order for protective custody and examination. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 28:53.2(G), relative to the execution of an order for protective
3 custody and examination; to provide certain procedures, terms, and conditions; to
4 provide relative to law enforcement; to provide relative to certain civil immunity;
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 28:53.2(G) is hereby amended and reenacted to read as follows:

8 §53.2. Order for custody; grounds; civil liability; criminal penalty for making a false
9 statement

10 * * *

11 ~~G.(1) If refused or obstructed from admittance, any elected coroner or his~~
12 ~~support staff, accompanied by a law enforcement officer, who has announced his~~
13 ~~authority and purpose, may apply to a court of competent jurisdiction for an order~~
14 ~~to break open an outer or inner door or window of any vehicle, water craft, aircraft,~~
15 ~~structure or dwelling in order to restrain and transport the person subject to a request~~
16 ~~and order for protective custody and examination after a mental health professional~~
17 ~~has intervened and attempted to counsel the person regarding his voluntary~~

1 surrender.

2 (2) ~~The application for a court order allowing forcible entry pursuant to~~
3 ~~Paragraph (1) of this Subsection shall be accompanied by a copy of the order for~~
4 ~~protective custody and an affidavit of the coroner or his support staff reciting facts~~
5 ~~establishing probable cause for forced entry. In exceptional circumstances, the facts~~
6 ~~supporting the order and the exceptional circumstances may be relayed orally,~~
7 ~~including telephonically, to the judge, and the order of the judge may be issued~~
8 ~~orally. In such cases, a copy of the order for protective custody and an affidavit~~
9 ~~containing the information relayed orally to the judge, including any telephonic~~
10 ~~communication, shall be provided to the judge within twenty-four hours of taking the~~
11 ~~person into protective custody. Upon the timely presentation of the copy of the order~~
12 ~~for protective custody and the affidavit of the oral communications, the judge shall~~
13 ~~issue a written order acknowledging receipt of the required information and of his~~
14 ~~oral order allowing forcible entry.~~

15 (3) ~~Any elected coroner or his support staff, accompanied by a law~~
16 ~~enforcement officer required to make a forceful entry to comply with a request and~~
17 ~~order for protective custody shall be immune from civil liability for or resulting from~~
18 ~~any act, decision, omission, communication, or any act or failure to act, made in~~
19 ~~good faith while engaged in the performance of his duty.~~

20 (4) ~~The civil immunity provided for in this Subsection shall not extend to any~~
21 ~~action for the serious bodily injury or wrongful death occasioned as a result of the~~
22 ~~restraint or transportation of the person subject to the request and order for protective~~
23 ~~custody. Neither shall such immunity from civil liability extend to actions by any~~
24 ~~third party who is physically injured during the execution of a request and order for~~
25 ~~protective custody.~~

26 **G.(1) If a law enforcement officer who has announced his authority and**
27 **purpose of executing an order for protective custody and examination is refused**
28 **or obstructed from admittance, and a mental health professional has intervened**
29 **and attempted to counsel the person regarding his voluntary surrender to no**

1 avail, any elected coroner or his support staff may apply to a court of competent
2 jurisdiction for an order allowing a law enforcement officer to break open an
3 outer or inner door or window of any vehicle, watercraft, aircraft, structure, or
4 dwelling in order to restrain and transport the person subject to a request and
5 order for protective custody examination.

6 (2) The application for a court order pursuant to this Subsection shall be
7 accompanied by a copy of the order for protective custody and an affidavit of
8 the coroner or his support staff reciting facts establishing probable cause for
9 forcible entry. In exceptional circumstances, such facts may be relayed to the
10 judge by telephone or other electronic communication and the order of the
11 judge may be issued orally. In such cases, a copy of the order for protective
12 custody and an affidavit containing the information relayed to the judge shall
13 be provided to the judge within twenty-four hours of taking the person into
14 protective custody. Upon the timely presentation of the copy of the order for
15 protective custody and the affidavit, the judge shall issue a written order
16 acknowledging receipt of the information and the issuance of an oral order
17 allowing forcible entry.

18 (3) Except as provided in Paragraph (4) of this Subsection, any elected
19 coroner and his support staff, and the executing law enforcement agency and
20 its officers, shall be immune from civil liability for an action arising from any
21 act, decision, omission, communication, or any act or failure to act, made in
22 good faith while engaged in the performance of their duty to obtain or execute
23 the order allowing the forcible entry or the restraining or transportation of the
24 subject for protective custody and examination.

25 (4) The civil immunity provided for in this Subsection shall not extend
26 to any action for the serious bodily injury or wrongful death occasioned as a
27 result of the restraint or transportation of the person subject to the request and
28 order for protective custody. Neither shall such immunity from civil liability
29 extend to actions towards any third party who is physically injured during the

