

SENATE BILL NO. 72

BY SENATOR MARTINY

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

* * *

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

~~(2) The application for a court order allowing forcible entry pursuant to Paragraph (1) of this Subsection shall be accompanied by a copy of the order for protective custody and an affidavit of the coroner or his support staff reciting facts establishing probable cause for forced entry. In exceptional circumstances, the facts supporting the order and the exceptional circumstances may be relayed orally,~~

1 including telephonically, to the judge, and the order of the judge may be issued
2 orally. In such cases, a copy of the order for protective custody and an affidavit
3 containing the information relayed orally to the judge, including any telephonic
4 communication, shall be provided to the judge within twenty-four hours of taking the
5 person into protective custody. Upon the timely presentation of the copy of the order
6 for protective custody and the affidavit of the oral communications, the judge shall
7 issue a written order acknowledging receipt of the required information and of his
8 oral order allowing forcible entry.

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

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

20 **G.(1) If a law enforcement officer who has announced his authority and**
21 **purpose of executing an order for protective custody and examination is refused**
22 **or obstructed from admittance, and a mental health professional has intervened**
23 **and attempted to counsel the person regarding his voluntary surrender to no**
24 **avail, any elected coroner or his support staff may apply to a court of competent**
25 **jurisdiction for an order allowing a law enforcement officer to break open an**
26 **outer or inner door or window of any vehicle, watercraft, aircraft, structure, or**
27 **dwelling in order to restrain and transport the person subject to a request and**
28 **order for protective custody examination.**

29 **(2) The application for a court order pursuant to this Subsection shall be**
30 **accompanied by a copy of the order for protective custody and an affidavit of**

1 the coroner or his support staff reciting facts establishing probable cause for
2 forcible entry. In exceptional circumstances, such facts may be relayed to the
3 judge by telephone or other electronic communication and the order of the
4 judge may be issued orally. In such cases, a copy of the order for protective
5 custody and an affidavit containing the information relayed to the judge shall
6 be provided to the judge within twenty-four hours of taking the person into
7 protective custody. Upon the timely presentation of the copy of the order for
8 protective custody and the affidavit, the judge shall issue a written order
9 acknowledging receipt of the information and the issuance of an oral order
10 allowing forcible entry.

11 (3) Except as provided in Paragraph (4) of this Subsection and in
12 instances of gross negligence or willful and wanton misconduct, an elected
13 coroner and his support staff, and the executing law enforcement agency and
14 its officers, shall not be civilly liable for any damage or injury resulting from
15 any act, decision, omission, communication, or any act or failure to act, made
16 in good faith while engaged in the performance of their duty to obtain or
17 execute the order allowing the forcible entry or the restraining or
18 transportation of the subject for protective custody and examination.

19 (4) The limitation of civil liability provided for in this Subsection shall
20 not extend to any action for the serious bodily injury or wrongful death
21 occasioned as a result of the restraint or transportation of the person subject to
22 the request and order for protective custody. Neither shall such limitation of
23 civil liability extend to injuries or damages sustained by a third party who is
24 physically injured during the execution of a request and order for protective
25 custody. The limitation of liability provided for in this Subsection is not
26 intended to limit or prohibit civil liability otherwise provided by law.

27 * * *

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____