
HOUSE COMMITTEE AMENDMENTS

2021 Regular Session

Amendments proposed by House Committee on Health and Welfare to Original House Bill No. 589 by Representative Duplessis

AMENDMENT NO. 1

On page 1, line 2, delete "R.S. 28:67(4)," and insert in lieu thereof "R.S. 28:66, 67(introductory paragraph) and (1) through (4), 68, 69(A)(2) and (B) through (F), 70(A), (B)(1), (E), and (F), 71, 72(A), 73, and 75 and to enact R.S. 28:69(G) and (H) and 77,"

AMENDMENT NO. 2

On page 1, line 3, after "treatment;" and before "and to" insert "to provide criteria and procedures for civil involuntary outpatient treatment; to provide for written treatment plans; to exempt certain proceedings from fees and court costs;"

AMENDMENT NO. 3

On page 1, line 6, after "Section 1." delete the remainder of the line and insert in lieu thereof "R.S. 28:66, 67(introductory paragraph) and (1) through (4), 68, 69(A)(2) and (B) through (F), 70(A), (B)(1), (E), and (F), 71, 72(A), 73, and 75 and to enact R.S. 28:69(G) and (H) and 77 are hereby amended and reenacted and R.S. 28:69(G) and (H) and 77 are hereby enacted to read as follows:"

AMENDMENT NO. 4

On page 1, between lines 6 and 7, insert the following:

"§66. Criteria for civil involuntary outpatient treatment

A. A patient respondent may be ordered to obtain civil involuntary outpatient treatment if the court finds that all of the following conditions apply:

(1) The patient respondent is eighteen years of age or older.

(2) The patient respondent is suffering from a mental illness.

(3) The patient respondent is unlikely to survive safely in the community without supervision, ~~based on a clinical determination.~~

(4) The patient respondent has a history of lack of compliance with treatment for mental illness, ~~that has resulted in either of the following:~~

~~(a) At least twice within the last thirty-six months, the lack of compliance with treatment for mental illness has been a significant factor resulting in an emergency certificate for hospitalization, or receipt of services in a forensic or other mental health unit of a correctional facility or a local correctional facility, not including any period during which the person was hospitalized or incarcerated immediately preceding the filing of the petition.~~

~~(b) One or more acts of serious violent behavior toward self or others or threats of, or attempts of, serious physical harm to self or others within the last thirty-six months as a result of mental illness, not including any period in which the person was hospitalized or incarcerated immediately preceding the filing of the petition.~~

(5) The patient respondent is, as a result of his mental illness, unlikely to voluntarily participate in ~~the recommended treatment pursuant to the treatment plan.~~

(6) In view of the treatment history and current behavior of the patient respondent, the patient respondent is in need of involuntary outpatient treatment to prevent a relapse or deterioration which would be likely to result in the patient respondent becoming dangerous to self or others or gravely disabled as defined in R.S. 28:2.

1 (7) It is likely that the patient respondent will benefit from involuntary
2 outpatient treatment.

3 B.(1) If the patient respondent has executed an advance directive as defined
4 in R.S. 28:221, any directions included in the directive shall be taken into account
5 by the court in determining the written treatment plan.

6 (2) Nothing ~~herein~~ in this Section shall preclude a person with an advance
7 directive from being subject to a petition pursuant to this Part."

8 AMENDMENT NO. 5

9 On page 1, line 9, delete "patient" and insert "respondent"

10 AMENDMENT NO. 6

11 On page 1, delete line 12 in its entirety and insert in lieu thereof the following:

12 "(1) The director, administrator, or treating physician of a hospital in which
13 the patient respondent is hospitalized.

14 (2) The director, administrator, or treating physician of an emergency
15 receiving center in which the patient respondent is receiving services.

16 (3) The director of the local governing entity, or his designee, in the parish
17 in which the patient respondent is present or reasonably believed to be present."

18 AMENDMENT NO. 7

19 On page 1, after line 15, add the following:

20 "§68. Petition

21 A. The petition shall contain the facts which are the basis of the assertion that
22 the patient respondent meets each of the criteria in R.S. 28:66 that he is present or
23 reasonably believed to be present in the parish where filed, and provide the
24 respondent with adequate notice and knowledge relative to the nature of the
25 proceeding.

26 B.(1) In addition to the content specified in Subsection A of this Section, the
27 petition shall contain the following information regarding the respondent:

- 28 (a) Name.
- 29 (b) Date of birth.
- 30 (c) Alias names, if any.
- 31 (d) Social security number.
- 32 (e) Sex.
- 33 (f) Race.

34 (2) If the petitioner is unable to provide any of the information listed in this
35 Subsection, the petitioner shall include in the petition the reasons why that
36 information cannot be provided.

37 ~~B. C.~~ The petition shall be accompanied by a Physician's Report to Court or
38 an affidavit of a physician, psychiatric mental health nurse practitioner or
39 psychologist and shall state either of the following:

40 (1) Such physician, psychiatric mental health nurse practitioner or
41 psychologist has examined the patient respondent no more than ten days prior to the
42 filing of the petition, he recommended involuntary outpatient treatment for the
43 patient, and he is willing and able to testify at the hearing on the petition.

44 (2) No more than ten days prior to the filing of the petition, such physician,
45 psychiatric mental health nurse practitioner or psychologist or his designee has made
46 appropriate attempts to elicit the cooperation of the patient respondent but has not
47 been successful in persuading him to submit to an examination, that such physician,

1 psychiatric mental health nurse practitioner or psychologist has reason to suspect that
 2 the ~~patient respondent~~ meets the criteria for involuntary outpatient treatment, and he
 3 is willing and able to examine the patient and testify at the hearing on the petition.

4 §69. Procedure

5 A.

6 * * *

7 (2) In addition to those persons entitled to notice pursuant to Paragraph (1)
 8 of this Subsection, if the respondent is interdicted, notice of the hearing and a copy
 9 of the petition shall also be served upon the curator for the interdict ~~and the attorney~~
 10 ~~who represented the interdict in the interdict proceedings.~~

11 * * *

12 B.(1) As soon as practical after the filing of the petition, the court shall
 13 review the petition and supporting documents and determine whether there exists
 14 probable cause to believe that the respondent is suffering from mental illness which
 15 renders him unlikely to voluntarily participate in the recommended treatment and,
 16 in view of the treatment history and current behavior of the patient, the respondent
 17 is in need of involuntary outpatient treatment to prevent a relapse or deterioration
 18 which would be likely to result in the respondent becoming dangerous to self or
 19 others or gravely disabled as defined in R.S. 28:2.

20 (2) If the court determines that probable cause exists, the court shall appoint
 21 a physician, psychiatric mental health nurse practitioner, or psychologist to examine
 22 the respondent and to provide a written "Physician's Report to Court" and testify at
 23 the hearing. The "Physician's Report to Court" shall be completed on the form
 24 provided by the office of behavioral health of the Louisiana Department of Health
 25 and provided to the court, the respondent's counsel, and the petitioner's counsel at
 26 least three days before the hearing.

27 (3) The "Physician's Report to Court" shall set forth specifically the objective
 28 factors leading to the conclusion that the person has a mental illness that renders him
 29 unlikely to voluntarily participate in the recommended treatment and, in view of the
 30 treatment history and current behavior of the patient, the respondent is in need of
 31 involuntary outpatient treatment to prevent a relapse or deterioration which would
 32 be likely to result in the respondent becoming dangerous to self or others or gravely
 33 disabled as defined in R.S. 28:2. The report to court shall also include
 34 recommendations for a treatment plan.

35 (4) The court-appointed physician, psychiatric mental health nurse
 36 practitioner, or medical psychologist may be the respondent's treating physician,
 37 treating psychiatric nurse practitioner, or treating medical psychologist.

38 ~~B:~~ C. The court shall conduct a hearing on the petition which shall take
 39 precedence over all other matters, except pending cases of the same type. The court
 40 shall admit evidence according to the Louisiana Code of Evidence. Witnesses and
 41 evidence tending to show that the ~~patient respondent~~ is a proper subject for
 42 outpatient placement shall be presented first. If the ~~patient respondent~~ does not
 43 appear at the hearing, and service of process was proper and appropriate attempts to
 44 elicit attendance failed, the court may conduct the hearing in the absence of the
 45 ~~patient respondent~~, but the court shall state the factual basis for conducting the
 46 hearing without the ~~patient respondent~~.

47 ~~C:~~ D. The court shall not order involuntary outpatient treatment unless an
 48 examining physician, psychiatric mental health nurse practitioner, or psychologist,
 49 who has personally examined the ~~patient within the time period commencing ten~~
 50 ~~days before the filing of the petition~~ respondent, testifies at the hearing, in person or
 51 via electronic means, with consent of all the parties, regarding the categories of
 52 involuntary outpatient treatment recommended, the rationale for each category, facts

1 which establish that such treatment is the least restrictive alternative, and if
 2 recommended, the beneficial and detrimental physical and mental effects of
 3 medication, and whether such medication should be self-administered or
 4 administered by an authorized professional.

5 ~~D. E.~~ E. If the patient respondent has refused to be examined by a the court-
 6 ordered physician, psychiatric mental health nurse practitioner, or psychologist, ~~the~~
 7 ~~court may order the subject to undergo an examination by a physician, psychiatric~~
 8 ~~mental health nurse practitioner, or psychologist appointed by the court. If the patient~~
 9 ~~refuses to undergo the court-ordered examination and the court finds reasonable~~
 10 ~~cause to believe that the allegations in the petition are true, the court may shall~~ order
 11 the sheriff's department to take the patient respondent into custody and transport him
 12 to a psychiatrist's office, behavioral health center, hospital, or emergency receiving
 13 ~~center for examination.~~ Retention of the patient respondent in accordance with the
 14 court order shall not exceed twenty-four hours. ~~The examination of the patient may~~
 15 ~~be performed by the physician, psychiatric mental health nurse practitioner, or~~
 16 ~~psychologist whose affidavit or Physician's Report to Court accompanied the petition~~
 17 ~~pursuant to R.S. 28:68(B), if he is privileged or otherwise authorized by the hospital~~
 18 ~~or emergency receiving center. If such examination is performed by another~~ The
 19 examining physician, psychiatric mental health nurse practitioner, or psychologist;
 20 ~~he~~ shall be authorized to consult with the patient's treating physician, psychiatric
 21 mental health nurse practitioner, or psychologist ~~whose affidavit or Physician's~~
 22 ~~Report to Court accompanied the petition regarding the issues of whether the~~
 23 ~~allegations in the petition are true and whether the patient meets the criteria for~~
 24 ~~involuntary outpatient treatment.~~

25 ~~E. F.~~ F. A physician, psychiatric mental health nurse practitioner, or
 26 psychologist who testifies pursuant to Subsection ~~E~~ D of this Section shall state the
 27 facts which support the allegation that the patient respondent meets each of the
 28 criteria for involuntary outpatient treatment, the treatment is the least restrictive
 29 alternative, the recommended involuntary outpatient treatment, and the rationale. If
 30 the recommended involuntary outpatient treatment includes medication, the
 31 testimony of the physician, psychiatric mental health nurse practitioner, or medical
 32 psychologist shall describe the types or classes of medication which should be
 33 authorized, the beneficial and detrimental physical and mental effects of such
 34 medication, and whether the medication should be self-administered or administered
 35 by authorized personnel.

36 ~~F. The patient~~ G. The respondent shall be afforded an opportunity to present
 37 evidence, to call witnesses on his behalf, and to cross-examine adverse witnesses.

38 H. Each court shall keep a record of the cases relating to persons who have
 39 a mental illness coming before it under this Title and the disposition of those cases.
 40 It shall also keep on file the original petition and certificates of physicians required
 41 by this Section, or a microfilm duplicate of such records. All records maintained in
 42 the courts pursuant to the provisions of this Section shall be sealed and available only
 43 to the parties to the case, unless the court, after hearing held with notice to the
 44 respondent, determines such records should be disclosed to a petitioner for cause
 45 shown. Hearings under this statute shall be closed to the public.

46 §70. Written treatment plan for involuntary outpatient treatment

47 A. The court shall not order involuntary outpatient treatment unless an
 48 examining physician, psychiatric mental health nurse practitioner, or psychologist
 49 develops and provides to the court a proposed written treatment plan. The written
 50 treatment plan shall be developed in consultation with the respondent and, upon his
 51 request, an individual significant to him and concerned with his welfare and deemed
 52 appropriate by the director as well as the patient and upon his request, an individual
 53 significant to him and concerned with his welfare. The written treatment plan shall

1 include appropriate services to provide care coordination. The written treatment plan
2 shall also include appropriate categories of services, as set forth in Subsection D of
3 this Section, which the patient respondent is recommended to receive and are
4 available to the patient. The written treatment plan shall specify a provider that has
5 agreed to provide each of the specified services. If the written treatment plan
6 includes medication, it shall state whether the medication should be
7 self-administered or administered by authorized personnel, and shall specify type and
8 dosage range of medication most likely to provide maximum benefit for the patient.

9 B. If the written treatment plan includes substance-related or addictive
10 disorder counseling and treatment, it may include a provision requiring testing for
11 either alcohol or illegal substances provided the clinical basis for recommending
12 such plan provides sufficient facts for the court to find all of the following:

13 (1) The patient respondent has a history of a substance-related or addictive
14 disorder that is clinically related to the mental illness.

15 * * *

16 E. ~~The director or his designee of the local governing entity shall certify~~ It
17 shall be certified to the court that the services ordered in the plan are available and
18 can be reasonably accessed by the patient respondent.

19 F.(1) The written treatment plan is subject to reviews before the court with
20 the patient respondent and at least one representative of the treatment team. The
21 initial frequency shall be stipulated in the treatment plan and modified with the
22 court's approval.

23 (2) The court order required blood or laboratory testing ~~shall~~ may be subject
24 to review after six months by the physician, psychiatric mental health nurse
25 practitioner, or psychologist who developed the written treatment plan or who is
26 designated by the director, and the blood or laboratory testing may be terminated
27 without further action of the court.

28 §71. Disposition

29 A. If the court determines that the patient respondent does not meet the
30 criteria for involuntary outpatient treatment, the court shall dismiss the petition.

31 B. If the court finds by clear and convincing evidence that the patient
32 respondent meets the criteria for involuntary outpatient treatment, and no less
33 restrictive alternative is feasible, the court shall order that the patient respondent
34 receive involuntary outpatient treatment for an initial period not to exceed one year.
35 The court shall state reasons why the proposed treatment plan is the least restrictive
36 treatment appropriate and feasible for the patient. The order shall state the categories
37 of involuntary outpatient treatment as set forth in R.S. 28:70, which the patient
38 respondent is to receive, and the court may not order treatment that has not been
39 recommended by the physician, psychiatric mental health nurse practitioner, or
40 psychologist in consultation with the treatment team and included in the written
41 treatment plan. The court shall not order an outpatient commitment unless ~~the~~
42 director or his designee certifies it is certified to the court that the services are
43 available.

44 C. If the court finds by clear and convincing evidence that the patient
45 respondent meets the criteria for involuntary outpatient treatment, and a written
46 proposed treatment plan has not been approved, the court shall order the director of
47 the local governing entity to provide a plan and testimony within five days of the
48 date of the order.

49 D. The court may order the patient respondent to self-administer psychotropic
50 drugs or order the administration of such drugs by authorized personnel as part of an
51 involuntary outpatient treatment program. The order shall specify the type of

1 psychotropic drugs and it shall be effective for the duration of such involuntary
2 outpatient treatment.

3 ~~E. If the petitioner is affiliated with a hospital that operates an involuntary~~
4 ~~outpatient treatment program that is willing to treat the patient, the court order shall~~
5 ~~direct the hospital to provide all available categories of involuntary outpatient~~
6 ~~treatment services. If the hospital does not have such a program or if the patient is~~
7 ~~discharged to a different local governing entity, or if the director of the local~~
8 ~~governing entity has filed the petition and certified services are available, the court~~
9 ~~order shall require the appropriate director to provide all available categories of~~
10 ~~involuntary outpatient treatment services.~~

11 F. The treatment provider shall apply for court approval prior to instituting
12 a proposed material change in the involuntary outpatient treatment order unless such
13 change is contemplated in the order. For purposes of this Subsection, a material
14 change shall mean an addition or deletion of a category of involuntary outpatient
15 treatment service, or any deviation without the consent of the patient respondent
16 from the terms of an existing order relating to the administration of psychotropic
17 drugs, or a change of residence from one local governing entity to another. A
18 material change shall not mean a change in the dosage or the specific psychotropic
19 drug within the type ordered by the court. Any application for court approval shall
20 be served upon all persons required to be served with notice of a petition for an order
21 authorizing involuntary outpatient treatment. Either party may move for a hearing
22 on the application. If a motion is not filed within five days from the date the
23 application is filed, the court shall grant the application.

24 ~~G. F.~~ Failure to comply with an order of assisted outpatient treatment shall
25 not be grounds, in and of itself, for involuntary civil commitment or a finding of
26 contempt of court.

27 §72. Application for additional periods of treatment

28 A. The court order for outpatient treatment shall expire at the end of the
29 specified period unless a petition for an extension has been filed. If any person or
30 entity authorized within R.S. 28:67 determines that a patient respondent requires
31 further involuntary outpatient treatment, he shall file a petition for continued
32 treatment prior to the expiration of the involuntary outpatient treatment ordered by
33 the court. If a patient respondent has been ordered to receive outpatient treatment for
34 four consecutive six-month to one-year periods, the period of any subsequent order
35 may exceed one year but shall not exceed two years.

36 * * *

37 §73. Application to stay, vacate, or modify

38 In addition to any right or remedy available by law, the patient respondent
39 may apply to the court to stay, vacate, or modify the order based on a change in
40 circumstances and he shall notify the director of the local governing entity or
41 designee of his application.

42 * * *

43 §75. Failure to comply with involuntary outpatient treatment

44 ~~A. If either party alleges noncompliance under the written treatment plan, a~~
45 ~~judicial review can be scheduled and all persons listed in R.S. 28:69(A) are to~~
46 ~~receive notice. When a physician, psychiatric mental health nurse practitioner, or~~
47 ~~psychologist determines the respondent has failed to comply with the ordered~~
48 ~~treatment, the local governing entity, case manager, or assertive community~~
49 ~~treatment provider shall make reasonable efforts to solicit the compliance of the~~
50 ~~respondent.~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 ~~B. When a physician, psychiatric mental health nurse practitioner, or~~
2 ~~psychologist determines the patient has failed to comply with the ordered treatment,~~
3 ~~efforts were made to solicit compliance by the local governing entity, case manager,~~
4 ~~or assertive community treatment provider, and the patient may be in need of~~
5 ~~involuntary admission to a treatment facility; If either party alleges noncompliance~~
6 ~~despite the efforts referenced in Subsection A of this section, a judicial hearing shall~~
7 ~~be scheduled and all persons listed in R.S. 28:69(A) are to receive notice.~~

8 C. When a physician, psychiatric mental health nurse practitioner, or
9 psychologist determines that the respondent meets the relevant criteria, he may
10 execute an emergency certificate in accordance with R.S. 28:53, request an order for
11 custody in accordance with R.S. 28:53.2, or seek a judicial commitment in
12 accordance with R.S. 28:54. Any period of hospitalization shall not invalidate the
13 order for assisted outpatient treatment.

14 ~~C. If the patient~~ D. If the respondent refuses to take medication or refuses to
15 take or fails blood or other laboratory tests as required by court order, the physician,
16 psychiatric mental health nurse practitioner, or psychologist may consider his refusal
17 in determining whether the ~~patient~~ respondent is in need of inpatient treatment
18 services.

19 * * *
20 §77. Fees and court costs

21 Assistive outpatient treatment proceedings shall be exempt from charges for
22 filing fees or taxing of court costs."

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.