
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 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 practitioner₂ or
 39 psychologist and shall state either of the following:

40 (1) Such physician, psychiatric mental health nurse practitioner₂ 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 respondent, 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 practitioner₂ or psychologist₂ or ~~his~~ a designee of
 46 such clinician, has made appropriate attempts to elicit the cooperation of the patient
 47 respondent but has not been successful in persuading him to submit to an

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

5 §69. Procedure

6 A.

7 * * *

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

12 * * *

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

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

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

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

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

48 ~~C:~~ D. The court shall not order involuntary outpatient treatment unless an
 49 examining physician, psychiatric mental health nurse practitioner, or psychologist,
 50 who has personally examined the patient within the time period commencing ten
 51 days before the filing of the petition respondent, testifies at the hearing, in person or
 52 via electronic means, with consent of all the parties, regarding the categories of
 53 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 respondent'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 cases relating to persons who have a
 39 mental illness coming before the court pursuant to the provisions of this Title and the
 40 disposition of those cases. Each court shall also keep on file the original petition and
 41 certificates of physicians required by this Section, or a microfilm duplicate of such
 42 records. All records maintained in courts pursuant to the provisions of this Section
 43 shall be sealed and available only to the parties to the case, unless a court, after a
 44 hearing held with notice to the respondent, determines such records should be
 45 disclosed to a petitioner for cause shown. Any hearing conducted in accordance with
 46 this Subsection shall be closed to the public.

47 §70. Written treatment plan for involuntary outpatient treatment

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

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

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

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

17 * * *

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

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

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

30 §71. Disposition

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

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

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

1 D. The court may order the patient respondent to self-administer psychotropic
2 drugs or order the administration of such drugs by authorized personnel as part of an
3 involuntary outpatient treatment program. The order shall specify the type of
4 psychotropic drugs and it shall be effective for the duration of such involuntary
5 outpatient treatment.

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

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

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

30 §72. Application for additional periods of treatment

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

39 * * *

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

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

45 * * *

46 §75. Failure to comply with involuntary outpatient treatment

47 A. ~~If either party alleges noncompliance under the written treatment plan, a~~
48 ~~judicial review can be scheduled and all persons listed in R.S. 28:69(A) are to~~
49 ~~receive notice. When a physician, psychiatric mental health nurse practitioner, or~~
50 ~~psychologist determines the respondent has failed to comply with the ordered~~

1 treatment, the local governing entity, case manager, or assertive community
2 treatment provider shall make reasonable efforts to solicit the compliance of the
3 respondent.

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

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

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

22 * * *

23 §77. Fees and court costs

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