

GREEN SHEET REDIGEST

HB 589

2021 Regular Session

Duplessis

**MENTAL HEALTH: Provides relative to civil involuntary outpatient treatment for persons suffering from mental illness.**

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DIGEST

Present law provides for the civil involuntary outpatient treatment for persons suffering from mental illness; for petitions for court orders authorizing involuntary outpatient treatment; and for procedures of courts with respect to the petitions.

Proposed law changes the term "patient" to "respondent" throughout present law.

Proposed law deletes present law requiring that a person's history of lack of compliance with mental health treatment must result in certain outcomes in order to qualify him for court-ordered involuntary outpatient treatment. Provides instead that the person's history of lack of compliance with mental health treatment qualifies him for court-ordered involuntary outpatient treatment pursuant to present law and proposed law.

Present law provides that a petition to obtain an order authorizing involuntary outpatient treatment may be initiated by several authorized persons including any interested person through counsel with written concurrence of the coroner in the jurisdiction in which the person is found. Proposed law removes the requirement for written concurrence of the coroner to be filed with the petitions but allows the court to order the coroner to provide written concurrence to the allegations found in the petition to authorize involuntary outpatient treatment.

Proposed law adds to present law items of information to be included in petitions to the court for orders authorizing involuntary outpatient treatment.

Proposed law requires that as soon as is practical after the filing of the petition for an order authorizing involuntary outpatient treatment, the court shall review the petition and supporting documents and determine whether there exists probable cause to believe that the respondent is suffering from a mental illness which renders him unlikely to voluntarily participate in the recommended treatment and in need of involuntary outpatient treatment to prevent a relapse or deterioration which would be likely to result in him becoming dangerous to self or others or gravely disabled.

Proposed law requires that if the court determines that probable cause exists, it shall appoint a physician, psychiatric mental health nurse practitioner, or psychologist to examine the respondent and to provide a report provided for in present law (Physician's Report to Court) and testify at the hearing. Proposed law requires the report to specifically state the objective factors leading to the conclusion that the person has a mental illness that renders him unlikely to voluntarily participate in the recommended treatment and is in need of involuntary outpatient treatment to prevent a relapse or deterioration which would be likely to result in him becoming dangerous to self or others or gravely disabled.

Proposed law revises present law concerning procedures of courts with respect to petitions for orders authorizing involuntary outpatient treatment. Adds to present law a requirement that each court keep a record of the cases relating to persons who have a mental illness coming before it pursuant to present law and the disposition of those cases.

Proposed law provides that all records maintained in courts pursuant to present law and proposed law shall be sealed and available only to the parties to the case, unless a court, after a hearing held with notice to the respondent, determines such records should be disclosed to a petitioner for cause shown. Requires that any such hearing shall be closed to the public.

Proposed law revises present law concerning written treatment plans for involuntary outpatient treatment.

Proposed law repeals present law providing all of the following:

- (1) If the petitioner is affiliated with a hospital that operates an involuntary outpatient treatment program that is willing to treat the patient, the court order shall direct the hospital to provide all available categories of involuntary outpatient treatment services.
- (2) If the hospital does not have such a program or if the patient is discharged to a different local governing entity, or if the director of the local governing entity has filed the petition and certified services are available, the court order shall require the appropriate director to provide all available categories of involuntary outpatient treatment services.

Proposed law repeals present law providing that if either party alleges noncompliance under a written treatment plan, a judicial review can be scheduled and all persons listed in present law, R.S. 28:69(A), are to receive notice. Proposed law adds the requirement that when a physician, psychiatric mental health nurse practitioner, or psychologist determines the respondent has failed to comply with the ordered treatment, the local governing entity, case manager, or treatment provider shall make reasonable efforts to solicit the compliance of the respondent.

Proposed law revises present law concerning noncompliance with written treatment plans and hearings on such noncompliance.

Proposed law stipulates that assistive outpatient treatment proceedings conducted pursuant to present law and proposed law shall be exempt from charges for filing fees or taxing of court costs.

Proposed law defines "interested person" as anyone of legal age who has an interest in the outcome of a particular case, which may include but shall not be limited to any adult relative or friend of the respondent, any official or representative of a public or private agency, corporation, or association that is concerned with the respondent's welfare, or any other person found suitable by the court.

(Amends R.S. 28:66, 67(intro. para.) and (1)-(4), 68, 69(A)(2) and (B)-(F), 70(A), (B)(1), (D)(2)(intro. para.), (E), and (F), 71, 72(A), 73, and 75; adds R.S. 28:69(G) and (H) and 77)

#### Summary of Amendments Adopted by House

##### The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Change the term "patient" to "respondent" in present law relative to civil involuntary outpatient treatment for persons suffering from mental illness (Part III-A of Chapter 1 of Title 28 of the La. R.S.).
2. Delete present law requiring that a person's history of lack of compliance with mental health treatment must result in certain outcomes in order to qualify him for court-ordered involuntary outpatient treatment, thereby providing that the person's history of lack of compliance with mental health treatment, ipso facto, qualifies him for court-ordered involuntary outpatient treatment pursuant to present law and proposed law.
3. Add to present law items of information to be included in petitions to the court for orders authorizing involuntary outpatient treatment.

4. Require that as soon as is practical after the filing of the petition for an order authorizing involuntary outpatient treatment, the court shall review the petition and supporting documents and determine whether there exists probable cause to believe that the respondent is suffering from mental illness which renders him unlikely to voluntarily participate in the recommended treatment and, in view of the treatment history and current behavior of the respondent, he is in need of involuntary outpatient treatment to prevent a relapse or deterioration which would be likely to result in him becoming dangerous to self or others or gravely disabled as defined in present law.
5. Require that if the court determines that probable cause exists, it shall appoint a physician, psychiatric mental health nurse practitioner, or psychologist to examine the respondent and to provide a report provided for in present law (Physician's Report to Court) and testify at the hearing. Require that the report set forth specifically the objective factors leading to the conclusion that the person has a mental illness that renders him unlikely to voluntarily participate in the recommended treatment and, in view of the treatment history and current behavior of the respondent, he is in need of involuntary outpatient treatment to prevent a relapse or deterioration which would be likely to result in him becoming dangerous to self or others or gravely disabled defined in present law. Stipulate that the report shall also include recommendations for a treatment plan.
6. Revise present law concerning procedures of courts with respect to petitions for orders authorizing involuntary outpatient treatment. Add to such law a requirement that each court keep a record of the cases relating to persons who have a mental illness coming before it pursuant to present law and the disposition of those cases.
7. Provide that all records maintained in courts pursuant to present law and proposed law shall be sealed and available only to the parties to the case, unless a court, after a hearing held with notice to the respondent, determines such records should be disclosed to a petitioner for cause shown. Require that any such hearing shall be closed to the public.
8. Revise present law concerning written treatment plans for involuntary outpatient treatment.
9. Delete present law providing all of the following:
  - a. If the petitioner is affiliated with a hospital that operates an involuntary outpatient treatment program that is willing to treat the patient, the court order shall direct the hospital to provide all available categories of involuntary outpatient treatment services.
  - b. If the hospital does not have such a program or if the patient is discharged to a different local governing entity, or if the director of the local governing entity has filed the petition and certified services are available, the court order shall require the appropriate director to provide all available categories of involuntary outpatient treatment services.
10. Delete present law providing that if either party alleges noncompliance under a written treatment plan, a judicial review can be scheduled and all persons listed in present law, R.S. 28:69(A), are to receive notice. Add in lieu thereof a requirement that when a physician, psychiatric mental health nurse practitioner, or psychologist determines the respondent has failed to comply with the ordered treatment, the local governing entity, case manager, or treatment provider shall make reasonable efforts to solicit the compliance of the respondent.
11. Revise present law concerning noncompliance with written treatment plans and hearings on such noncompliance.

12. Stipulate that assistive outpatient treatment proceedings conducted pursuant to present law and proposed law shall be exempt from charges for filing fees or taxing of court costs.

The House Floor Amendments to the engrossed bill:

1. Define "interested person", for the purposes of present law and proposed law, as anyone of legal age who has an interest in the outcome of a particular case, which may include but shall not be limited to any adult relative or friend of the respondent, any official or representative of a public or private agency, corporation, or association that is concerned with the respondent's welfare, or any other person found suitable by the court.
2. Change "patient" to "respondent" in present law for consistency.
3. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the reengrossed bill

1. Provide for written concurrence of the coroner to certain petitions for involuntary outpatient treatment.
2. Provide for a reasonable opportunity for the respondent to participate in the development of the written treatment plan.
3. Make technical changes.