

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 589

2021 Regular Session

Duplessis

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

Synopsis of Senate Amendments

1. Requires from the coroner written concurrence of the allegations for involuntary outpatient treatment if ordered by the court.
2. Requires that a reasonable opportunity to develop a written treatment be afforded to the respondent's designee.
3. Requires the treatment plan to reflect the expressed preferences of the respondent if consistent with the respondent's best interests.

Digest of Bill as Finally Passed by Senate

Present law, Part III-A of Chapter 1 of Title 28 of the La. R.S., provides relative to 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 such 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, ipso facto, 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 deletes from present law the requirement for written concurrence of the coroner.

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 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.

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. Requires 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. Stipulates that the report shall also include recommendations for a treatment plan.

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 deletes 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 deletes 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. Adds 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.

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.

Proposed law affords the respondent's designee a reasonable opportunity to establish a treatment plan that expresses the respondent's preferences to the extent that the preferences are in the best interest of the respondent.

Proposed law requires the coroner in the jurisdiction in which the respondent was found to provide a written concurrence to the allegations for the respondent's involuntary outpatient treatment if ordered 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)