

2024 Regular Session

SENATE BILL NO. 231

BY SENATOR DUPLESSIS

MENTAL HEALTH. Provides regarding involuntary outpatient treatment for mental health.
(8/1/24)

1 AN ACT

2 To amend and reenact introductory paragraph of R.S. 28:67, R.S. 28:68(A), 69(A)(1), (B)(2)
3 and (3), (D), and (E), 70(D)(1), and 71(C), relative to involuntary outpatient mental
4 health treatment; to provide for petitions to the court; to provide for judicial
5 procedures; to provide for written treatment plans for involuntary outpatient
6 treatment; to provide relative to dispositions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The introductory paragraph of R.S. 28:67, R.S. 28:68(A), 69(A)(1), (B)(2)
9 and (3), (D), and (E), 70(D)(1), and 71(C) are hereby amended and reenacted to read as
10 follows:

11 §67. Petition to the court

12 A petition for an order authorizing involuntary outpatient treatment may be
13 filed in the judicial district in the parish in which the respondent is present or
14 reasonably believed to be present or in the judicial district where the respondent
15 resides. A petition to obtain an order authorizing involuntary outpatient treatment
16 may be initiated by one of the following persons:

17 * * *

1 §68. Petition

2 A. The petition shall contain the facts which are the basis of the assertion that
3 the respondent meets each of the criteria in R.S. 28:66 that he is present or
4 reasonably believed to be present in the parish where filed **or that the respondent**
5 **is a resident of the judicial district where the petition is filed**, and provide the
6 respondent with adequate notice and knowledge relative to the nature of the
7 proceeding.

8 * * *

9 §69. Procedure

10 A.(1) Upon the filing of the petition authorized by R.S. 28:67, the court shall
11 assign a time and place for a hearing as promptly as is practical, ~~but in no case~~ later
12 than eighteen days after the filing of the petition, **only if the respondent is**
13 **involuntarily confined in an inpatient facility, or no later than thirty days after**
14 **the filing of the petition if the respondent is not confined in a facility**, which may
15 be conducted before any judge in the judicial district and shall cause reasonable
16 notice thereof and a copy of the petition to be served upon the respondent,
17 respondent's attorney, the petitioner, and the director of the local governing entity in
18 the parish where the petition has been filed. The notice shall inform the respondent
19 that he has a right to be present, a right to retain counsel, has the right to counsel
20 appointed to represent him by the Mental Health Advocacy Service, and a right to
21 cross-examine witnesses. Continuances shall be granted only for good cause shown.

22 * * *

23 B.

* * *

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

1 least three days before the hearing. Nothing in this Paragraph shall prevent the court
2 from appointing a willing and available physician, psychiatric mental health nurse
3 practitioner, or **medical** psychologist who has been put forth by the petitioner or
4 from accepting a Physician's Report to Court that has been completed pursuant to an
5 examination of the respondent conducted within ten days prior to the filing of the
6 petition. **The examination of the respondent for the purpose of the Physician's**
7 **Report to Court must be conducted with this ten day period prior to the filing**
8 **of the petition or after the filing of the petition.**

9 (3) The Physician's Report to Court shall set forth specifically the objective
10 factors leading to the conclusion that the respondent has a mental illness that renders
11 him unlikely to voluntarily participate in the recommended treatment and, in view
12 of the treatment history and current behavior of the respondent, he is in need of
13 involuntary outpatient treatment to prevent a relapse or deterioration which would
14 be likely to result in his becoming dangerous to self or others or gravely disabled as
15 defined in R.S. 28:2. The report shall also include recommendations for a treatment
16 plan. **The examining physician, psychiatric mental health nurse practitioner, or**
17 **psychologist shall be authorized to consult with the respondent's treating**
18 **physician, psychiatric mental health nurse practitioner, or psychologist.**

19 * * *

20 D. The court shall not order involuntary outpatient treatment unless an
21 examining physician, psychiatric mental health nurse practitioner, or **medical**
22 psychologist, who has personally examined the respondent, testifies at the hearing,
23 in person or via electronic means, with consent of all of the parties, regarding the
24 categories of involuntary outpatient treatment recommended, the rationale for each
25 category, facts which establish that such treatment is the least restrictive alternative,
26 and, if recommended, the beneficial and detrimental physical and mental effects of
27 medication and whether such medication should be self-administered or administered
28 by an authorized professional.

29 E. If the respondent has refused to be examined by the court-ordered

1 physician, psychiatric mental health nurse practitioner, or psychologist, the court
 2 shall order the sheriff's department to take the respondent into custody and transport
 3 him to a psychiatrist's office, behavioral health center, hospital, or emergency
 4 receiving center. Retention of the respondent in accordance with the court order shall
 5 not exceed twenty-four hours. ~~The examining physician, psychiatric mental health~~
 6 ~~nurse practitioner, or psychologist shall be authorized to consult with the~~
 7 ~~respondent's treating physician, psychiatric mental health nurse practitioner, or~~
 8 ~~psychologist.~~

* * *

10 §70. Written treatment plan for involuntary outpatient treatment

11 * * *

12 D.(1) Services ~~shall~~ **may** include but are not limited to case management,
 13 provided by the local governing entity which is defined as the assignment of the
 14 coordination of care for an outpatient individual with a serious mental illness to a
 15 single person or team, including all necessary medical and mental health care and
 16 associated supportive services.

17 * * *

18 §71. Disposition

19 * * *

20 C. If the court finds by clear and convincing evidence that the respondent
 21 meets the criteria for involuntary outpatient treatment, and a written proposed
 22 treatment plan has not been approved, the court ~~shall~~ **may** order the ~~director of the~~
 23 ~~local governing entity~~ **service provider** to provide a plan and testimony within ~~five~~
 24 **fourteen** days of the date of the order.

25 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Amanda Trapp.

filed in the judicial district in the parish in which the respondent is present or reasonably believed to be present.

Proposed law adds that the petition may be filed in the judicial district where the respondent resides.

Present law requires the court to assign a time and place for a hearing within 18 days after a petition is filed.

Proposed law provides that the 18 day time frame only applies if the respondent is involuntarily confined in an inpatient facility and further provides that the time frame is 30 days after the filing of the petition if the respondent is not confined in a facility.

Present law requires the court to appoint a physician, psychiatric mental health nurse practitioner, or psychologist to provide a Physician's Report to Court and testify at the hearing.

Proposed law requires the psychologist to be a medical psychologist.

Present law requires the examining healthcare provider to provide the court with a written treatment plan and requires the plan to include appropriate services to provide care coordination.

Present law provides for services that may be included in the plan. Proposed law requires that the services must be included in the plan.

Present law provides that if the court finds by clear and convincing evidence that the respondent meets the criteria for involuntary outpatient treatment, and a written proposed treatment plan has not been approved, the court shall order the director of the local governing entity to provide a plan and testimony within five days of the date of the order.

Proposed law provides instead that the court may order the service provider to provide a plan and testimony within 14 days of the date of the order.

Effective August 1, 2024.

(Amends R.S. 28:67(intro para), R.S. 28:68(A), 69(A)(1), (B)(2) and (3), (D), and (E), 70(D)(1), and 71(C))