

2024 Regular Session

SENATE BILL NO. 231

BY SENATOR DUPLESSIS

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

AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§67. Petition to the court

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

* * *

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~~ thirty days after the filing of the petition, which may be conducted
13 before any judge in the judicial district and shall cause reasonable notice thereof and
14 a copy of the petition to be served upon the respondent, respondent's attorney, the
15 petitioner, and the director of the local governing entity in the parish where the
16 petition has been filed. The notice shall inform the respondent that he has a right to
17 be present, a right to retain counsel, has the right to counsel appointed to represent
18 him by the Mental Health Advocacy Service, and a right to cross-examine witnesses.
19 Continuances shall be granted only for good cause shown.

20 * * *

21 B.

* * *

22 (2) If the court determines that probable cause exists, the court shall appoint
23 a physician, psychiatric mental health nurse practitioner, psychologist, or medical
24 psychologist to examine the respondent and to provide a written Physician's Report
25 to Court and testify at the hearing. The Physician's Report to Court shall be
26 completed on the form provided by the office of behavioral health of the Louisiana
27 Department of Health and provided to the court, the respondent's counsel, and the
28 petitioner's counsel at least three days before the hearing. Nothing in this Paragraph
29 shall prevent the court from appointing a willing and available physician, psychiatric

1 mental health nurse practitioner, **psychologist**, or **medical** psychologist who has
2 been put forth by the petitioner or from accepting a Physician's Report to Court that
3 has been completed pursuant to an examination of the respondent conducted within
4 ten days prior to the filing of the petition. **The examination of the respondent for**
5 **the purpose of the Physician's Report to Court shall be conducted within ten**
6 **days prior to the filing of the petition or ten days after the filing of the petition.**

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

18 * * *

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

28 E. If the respondent has refused to be examined by the court-ordered
29 physician, psychiatric mental health nurse practitioner, ~~or~~ **psychologist, or medical**

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

* * *

§70. Written treatment plan for involuntary outpatient treatment

* * *

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

* * *

§71. Disposition

* * *

C. 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~~ **may** order the ~~director of the local governing entity~~ **service provider** to provide a plan and testimony within ~~five~~ **thirty** days of the date of the order.

* * *

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

DIGEST

SB 231 Reengrossed

2024 Regular Session

Duplessis

Present law allows a petition for an order authorizing involuntary outpatient treatment to be 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 changes the time frame to 30 days after a petition is filed.

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 adds medical psychologists to the list of medical professionals that can be appointed.

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 30 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))

Summary of Amendments Adopted by Senate

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

1. Changes time frames.
2. Clarifies the type of medical professionals that may be appointed by the court.

Senate Floor Amendments to engrossed bill

1. Clarify the time frame for examination of a respondent for purposes of the Physician's Report to Court.
2. Make technical changes.