

RÉSUMÉ DIGEST

ACT 381 (SB 121)

2017 Regular Session

Ward

Prior law provided that in civil proceedings, the parties may obtain discovery by various methods, including physical and mental examinations.

Prior law further provided that when the mental or physical condition of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a physician or to produce for examination the person in his custody or legal control, except as provided by law. In addition, the court may order the party to submit to an examination by a vocational rehabilitation expert or a licensed clinical psychologist who is not a physician, provided the party has given notice of intention to use such an expert.

Prior law further provided that such court orders for mandatory examinations may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

New law retains prior law and adds reference to such examinations as additional medical opinions for physical and mental examinations.

New law further provides that a plaintiff shall not be ordered to submit to multiple examinations by multiple physicians within the same field of specialty for the same injury except for good cause shown.

New law provides that a minor shall have the right to have a parent, tutor, or legal guardian present during the examination, and that, if such person cannot be present, the court shall order the examination to be videotaped at the expense of the party being examined.

New law requires that the court consider the best interests of the minor, and provides that the court may impose conditions upon videotaping, including that it be done in a manner least harmful to the minor and without disclosure to the minor.

Prior law relative to employer and employee administrative procedures and claims provided that if a dispute arises as to the condition of an employee, or the employee's capacity to work, the employee may be ordered to undergo an examination to be made by a medical practitioner selected and appointed by the director. The medical examiner shall report his conclusions from the examination to the director and to the parties and such report shall be prima facie evidence of the facts therein stated.

Prior law further provided procedures for such examination and resulting report, including communications to the employee regarding such examination, and requesting by any party of such examination in a dispute prior to pretrial conference. Further provided for potential sanctions for an employee who refuses to submit himself to such examination, including suspension by the employer or payor of the employee's right to compensation or action until the examination takes place.

Prior law referred to such examinations as independent medical examinations and the examiner as an independent medical examiner. New law changes references to additional medical opinion medical examinations and compulsory medical examiners.

Prior law, relative to the Minority and Women's Business Enterprise Act, provided that for the purpose of determining whether a person is disabled, the state may require an additional medical examination by a physician chosen by the state, at the applicant's expense, prior to approval of an application. New law changes reference from "independent medical examination" to "additional medical opinion medical examination".

Prior law, relative to the Protection From Family Violence Act, provided that in domestic abuse cases, the court may grant any protective order or approve any consent agreement to bring about a cessation of domestic abuse, or the threat or danger thereof, to a party, any minor children, or any person alleged to be incompetent, which relief may include but is not limited to, ordering a medical evaluation of the defendant or the abused person, or both. New law changes reference from "medical evaluation" to "additional medical opinion medical evaluation".

Effective upon signature of governor (June 23, 2017).

(Amends C.C.P. Arts. 1421 and 1464, R.S. 23:1123, 1124, 1203(E), 1221(4)(s)(ii), 1307 and 1317.1, R.S. 39:1952(14)(e), and R.S. 46:2136(A)(4))