

2022 Regular Session

HOUSE BILL NO. 705

BY REPRESENTATIVE SEABAUGH

CIVIL/PROCEDURE: Provides relative to additional medical examinations

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 1464, relative to civil procedure; to
3 provide relative to additional medical opinions; to provide for submission to
4 examinations; to provide for multiple examinations in certain circumstances; to
5 provide relative to orders; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 1464 is hereby amended and reenacted
8 to read as follows:

9 Art. 1464. Order for an additional medical opinion for physical or mental
10 examination of persons

11 A. ~~When~~ Upon motion of the opposing party, when the mental or physical
12 condition of a party, or of a person in the custody or under the legal control of a
13 party, is in controversy, the court in which the action is pending ~~may~~ shall order the
14 party to submit to ~~an~~ one or more additional medical ~~opinion~~ opinions regarding
15 physical or mental examination by a physician or to produce for examination the
16 person in his custody or legal control, except as provided by law. In addition, the
17 court may order the party to submit to an additional medical opinion regarding an
18 examination by a vocational rehabilitation expert or a licensed clinical psychologist
19 who is not a physician, provided the party has given notice of intention to use such
20 an expert. ~~The order may be made only on motion for good cause shown and upon~~

1 ~~notice to the person to be examined and to all parties and shall specify the time,~~
2 ~~place, manner, conditions, and scope of the examination and the person or persons~~
3 ~~by whom it is to be made.~~

4 B.(1) Regardless of the number of defendants, a plaintiff shall not be ordered
5 to submit to multiple examinations by multiple physicians within the same field of
6 specialty for the same injury except for good cause shown.

7 (2)(a) Notwithstanding Subsection (1) of this Paragraph, when the party has
8 claimed more than one mental or physical condition in controversy, or a person in
9 the custody of or under the legal control of a party has claimed more than one mental
10 or physical condition in controversy, the court shall, upon motion of the opposing
11 party, order separate examinations regarding each mental or physical condition
12 placed in controversy.

13 (b) The party, or person in the custody of or under the legal control of the
14 party, shall not be examined by more than one duly qualified medical practitioner in
15 any one field or specialty for the same injury except for good cause shown.

16 C. A minor subject to examination under the provisions of this Article shall
17 have the right to have a parent, tutor, or legal guardian present during the
18 examination. If such person cannot be present, the court shall order the examination
19 to be videotaped at the expense of the party being examined. The court shall
20 consider the best interests of the minor and may impose conditions upon videotaping,
21 including that it be done in a manner least harmful to the minor and without
22 disclosure to the minor.

23 D. Except as provided in Paragraph C of this Article, any individual or
24 emancipated minor shall have no right to have any examination videotaped or have
25 a third party present at any examination.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 705 Engrossed

2022 Regular Session

Seabaugh

Abstract: Provides for the procedure and orders for additional medical opinions regarding physical or mental conditions in controversy.

Present law provides that when the mental or physical condition of a party is in controversy, the court may order the party submit to an additional medical opinion.

Proposed law changes present law and provides that upon motion of the opposing party, the court shall order a party to submit to one or more additional medical opinions.

Present law provides that an order may be made only on motion for good cause shown and upon notice to the person to be examined and all parties. Present law provides for information required in such order.

Proposed law removes present law order requirements.

Present law provides that regardless of the number of defendants, 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.

Proposed law supersedes present law and provides that when the party has placed more than one mental or physical condition in controversy, the court shall, upon motion of the opposing party, order separate examinations regarding each mental or physical condition placed in controversy.

Proposed law provides that the party shall not be examined by more than one duly qualified medical practitioner in any one field or specialty for the same injury except for good cause shown.

Present law provides that a minor shall have the right to have a parent, tutor, or legal guardian present during the examination. If a parent, tutor, or legal guardian cannot be present, the court shall order the examination be videotaped.

Proposed law provides that except as provided in present law any individual or emancipated minor shall have no right to have a third party present or to have the examination videotaped.

(Amends C.C.P. Art. 1464)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Remove requirement of a party to submit to an examination as soon after the incident that caused the action in controversy as demanded by the requesting party and thereafter when reasonably necessary.
2. Provide that the party shall not be examined by more than one duly qualified medical practitioner in any one field or specialty for the same injury except for good cause shown.

3. Prohibit individuals and emancipated minors from having the examination videotaped or having a third party present.