

2021 Regular Session

HOUSE BILL NO. 589

BY REPRESENTATIVE DUPLESSIS AND SENATORS BARROW, BOUDREAUX,  
AND HENSGENS

1 AN ACT

2 To amend and reenact R.S. 28:66, 67(introductory paragraph) and (1) through (4), 68,  
3 69(A)(2) and (B) through (F), 70(A), (B)(1), (D)(2)(introductory paragraph), (E), and  
4 (F), 71, 72(A), 73, and 75 and to enact R.S. 28:69(G) and (H) and 77, relative to  
5 behavioral health; to provide for persons who may petition to the court to authorize  
6 involuntary outpatient treatment; to provide criteria and procedures for civil  
7 involuntary outpatient treatment; to provide for written treatment plans; to exempt  
8 certain proceedings from fees and court costs; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 28:66, 67(introductory paragraph) and (1) through (4), 68, 69(A)(2)  
11 and (B) through (F), 70(A), (B)(1), (D)(2)(introductory paragraph), (E), and (F), 71, 72(A),  
12 73, and 75 are hereby amended and reenacted and R.S. 28:69(G) and (H) and 77 are hereby  
13 enacted to read as follows:

14 §66. Criteria for civil involuntary outpatient treatment

15 A. A patient respondent may be ordered to obtain civil involuntary outpatient  
16 treatment if the court finds that all of the following conditions apply:

- 17 (1) The patient respondent is eighteen years of age or older.  
18 (2) The patient respondent is suffering from a mental illness.  
19 (3) The patient respondent is unlikely to survive safely in the community  
20 without supervision, ~~based on a clinical determination.~~  
21 (4) The patient respondent has a history of lack of compliance with treatment  
22 for mental illness, ~~that has resulted in either of the following:~~  
23 ~~(a) At least twice within the last thirty-six months, the lack of compliance~~  
24 ~~with treatment for mental illness has been a significant factor resulting in an~~

1           ~~emergency certificate for hospitalization, or receipt of services in a forensic or other~~  
2           ~~mental health unit of a correctional facility or a local correctional facility, not~~  
3           ~~including any period during which the person was hospitalized or incarcerated~~  
4           ~~immediately preceding the filing of the petition.~~

5           ~~(b) One or more acts of serious violent behavior toward self or others or~~  
6           ~~threats of, or attempts of, serious physical harm to self or others within the last~~  
7           ~~thirty-six months as a result of mental illness, not including any period in which the~~  
8           ~~person was hospitalized or incarcerated immediately preceding the filing of the~~  
9           ~~petition.~~

10           (5) The patient respondent is, as a result of his mental illness, unlikely to  
11           voluntarily participate in ~~the recommended treatment pursuant to the~~ treatment plan.

12           (6) In view of the treatment history and current behavior of the patient  
13           respondent, the patient respondent is in need of involuntary outpatient treatment to  
14           prevent a relapse or deterioration which would be likely to result in the patient  
15           respondent's becoming dangerous to self or others or gravely disabled as defined in  
16           R.S. 28:2.

17           (7) It is likely that the patient respondent will benefit from involuntary  
18           outpatient treatment.

19           B.(1) If the patient respondent has executed an advance directive as defined  
20           in R.S. 28:221, any directions included in the directive shall be taken into account  
21           by the court in determining the written treatment plan.

22           (2) Nothing ~~herein~~ in this Section shall preclude a person with an advance  
23           directive from being subject to a petition pursuant to this Part.

24           §67. Petition to the court

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

29           (1) The director, administrator, or treating physician of a hospital in which  
30           the patient respondent is hospitalized.

1 (2) The director, administrator, or treating physician of an emergency  
2 receiving center in which the ~~patient~~ respondent is receiving services.

3 (3) The director of the local governing entity, or his designee, in the parish  
4 in which the ~~patient~~ respondent is present or reasonably believed to be present.

5 (4)(a) Any interested person through counsel ~~with written concurrence of the~~  
6 ~~coroner in the jurisdiction in which the person is found.~~ The court may order the  
7 coroner in the jurisdiction in which the respondent is found to provide written  
8 concurrence to the allegations found in the petition to authorize involuntary  
9 outpatient treatment.

10 (b) For the purposes of this Section, "interested person" means anyone of  
11 legal age who has an interest in the outcome of a particular case, which may include  
12 but shall not be limited to any adult relative or friend of the respondent, any official  
13 or representative of a public or private agency, corporation, or association that is  
14 concerned with the respondent's welfare, or any other person found suitable by the  
15 court.

16 \* \* \*

17 §68. Petition

18 A. The petition shall contain the facts which are the basis of the assertion that  
19 the ~~patient~~ respondent meets each of the criteria in R.S. 28:66 that he is present or  
20 reasonably believed to be present in the parish where filed, and provide the  
21 respondent with adequate notice and knowledge relative to the nature of the  
22 proceeding.

23 B.(1) In addition to the content specified in Subsection A of this Section, the  
24 petition shall contain the following information regarding the respondent:

25 (a) Name.

26 (b) Date of birth.

27 (c) Alias names, if any.

28 (d) Social security number.

29 (e) Sex.

30 (f) Race.



1 in view of the treatment history and current behavior of the respondent, he is in need  
2 of involuntary outpatient treatment to prevent a relapse or deterioration which would  
3 be likely to result in him becoming dangerous to self or others or gravely disabled  
4 as defined in R.S. 28:2.

5 (2) If the court determines that probable cause exists, the court shall appoint  
6 a physician, psychiatric mental health nurse practitioner, or psychologist to examine  
7 the respondent and to provide a written Physician's Report to Court and testify at the  
8 hearing. The Physician's Report to Court shall be completed on the form provided  
9 by the office of behavioral health of the Louisiana Department of Health and  
10 provided to the court, the respondent's counsel, and the petitioner's counsel at least  
11 three days before the hearing.

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

20 (4) The court-appointed physician, psychiatric mental health nurse  
21 practitioner, or medical psychologist may be the respondent's treating physician,  
22 treating psychiatric nurse practitioner, or treating medical psychologist.

23 ~~B:~~ C. The court shall conduct a hearing on the petition which shall take  
24 precedence over all other matters, except pending cases of the same type. The court  
25 shall admit evidence according to the Louisiana Code of Evidence. Witnesses and  
26 evidence tending to show that the ~~patient~~ respondent is a proper subject for  
27 outpatient placement shall be presented first. If the ~~patient~~ respondent does not  
28 appear at the hearing, and service of process was proper and appropriate attempts to  
29 elicit attendance failed, the court may conduct the hearing in the absence of the

1            patient respondent, but the court shall state the factual basis for conducting the  
2            hearing without the patient respondent.

3            ~~€. D.~~ D. The court shall not order involuntary outpatient treatment unless an  
4            examining physician, psychiatric mental health nurse practitioner, or psychologist,  
5            who has personally examined the patient ~~within the time period commencing ten~~  
6            ~~days before the filing of the petition~~ respondent, testifies at the hearing, in person or  
7            via electronic means, with consent of all the parties, regarding the categories of  
8            involuntary outpatient treatment recommended, the rationale for each category, facts  
9            which establish that such treatment is the least restrictive alternative, and, if  
10           recommended, the beneficial and detrimental physical and mental effects of  
11           medication; and whether such medication should be self-administered or  
12           administered by an authorized professional.

13           ~~Ð. E.~~ E. If the patient respondent has refused to be examined by a the court-  
14           ordered physician, psychiatric mental health nurse practitioner, or psychologist, ~~the~~  
15           ~~court may order the subject to undergo an examination by a physician, psychiatric~~  
16           ~~mental health nurse practitioner, or psychologist appointed by the court. If the patient~~  
17           ~~refuses to undergo the court-ordered examination and the court finds reasonable~~  
18           ~~cause to believe that the allegations in the petition are true, the court may~~ shall order  
19           the sheriff's department to take the patient respondent into custody and transport him  
20           to a psychiatrist's office, behavioral health center, hospital, or emergency receiving  
21           ~~center for examination.~~ Retention of the patient respondent in accordance with the  
22           court order shall not exceed twenty-four hours. ~~The examination of the patient may~~  
23           ~~be performed by the physician, psychiatric mental health nurse practitioner, or~~  
24           ~~psychologist whose affidavit or Physician's Report to Court accompanied the petition~~  
25           ~~pursuant to R.S. 28:68(B), if he is privileged or otherwise authorized by the hospital~~  
26           ~~or emergency receiving center. If such examination is performed by another~~ The  
27           examining physician, psychiatric mental health nurse practitioner, or psychologist;  
28           ~~he~~ shall be authorized to consult with the respondent's treating physician, psychiatric  
29           mental health nurse practitioner, or psychologist ~~whose affidavit or Physician's~~  
30           ~~Report to Court accompanied the petition regarding the issues of whether the~~

1           ~~allegations in the petition are true and whether the patient meets the criteria for~~  
 2           ~~involuntary outpatient treatment.~~

3           E. F. A physician, psychiatric mental health nurse practitioner, or  
 4           psychologist who testifies pursuant to Subsection ~~E~~ D of this Section shall state the  
 5           facts which support the allegation that the ~~patient~~ respondent meets each of the  
 6           criteria for involuntary outpatient treatment, the treatment is the least restrictive  
 7           alternative, the recommended involuntary outpatient treatment, and the rationale. If  
 8           the recommended involuntary outpatient treatment includes medication, the  
 9           testimony of the physician, psychiatric mental health nurse practitioner, or medical  
 10          psychologist shall describe the types or classes of medication which should be  
 11          authorized, the beneficial and detrimental physical and mental effects of such  
 12          medication, and whether the medication should be self-administered or administered  
 13          by authorized personnel.

14          ~~F. The patient~~ G. The respondent shall be afforded an opportunity to present  
 15          evidence, to call witnesses on his behalf, and to cross-examine adverse witnesses.

16          H. Each court shall keep a record of cases relating to persons who have a  
 17          mental illness coming before the court pursuant to the provisions of this Title and the  
 18          disposition of those cases. Each court shall also keep on file the original petition and  
 19          certificates of physicians required by this Section, or a microfilm duplicate of such  
 20          records. All records maintained in courts pursuant to the provisions of this Section  
 21          shall be sealed and available only to the parties to the case, unless a court, after a  
 22          hearing held with notice to the respondent, determines such records should be  
 23          disclosed to a petitioner for cause shown. Any hearing conducted in accordance with  
 24          this Subsection shall be closed to the public.

25          §70. Written treatment plan for involuntary outpatient treatment

26          A. The court shall not order involuntary outpatient treatment unless an  
 27          examining physician, psychiatric mental health nurse practitioner, or psychologist  
 28          develops and provides to the court a proposed written treatment plan. The  
 29          respondent, and any other individual whom the respondent may designate, shall be  
 30          afforded a reasonable opportunity to participate in the development of the written



1 F.(1) The written treatment plan is subject to reviews before the court with  
2 the ~~patient~~ respondent and at least one representative of the treatment team. The  
3 initial frequency shall be stipulated in the treatment plan and modified with the  
4 court's approval.

5 (2) The ~~court order required~~ court-ordered blood or laboratory testing ~~shall~~  
6 may be subject to review after six months by the physician, psychiatric mental health  
7 nurse practitioner, or psychologist who developed the written treatment plan or who  
8 is designated by the director, and the blood or laboratory testing may be terminated  
9 without further action of the court.

10 §71. Disposition

11 A. If the court determines that the ~~patient~~ respondent does not meet the  
12 criteria for involuntary outpatient treatment, the court shall dismiss the petition.

13 B. If the court finds by clear and convincing evidence that the ~~patient~~  
14 respondent meets the criteria for involuntary outpatient treatment, and no ~~less~~  
15 ~~restrictive~~ less-restrictive alternative is feasible, the court shall order that the ~~patient~~  
16 respondent receive involuntary outpatient treatment for an initial period not to  
17 exceed one year. The court shall state reasons why the proposed treatment plan is the  
18 least restrictive treatment appropriate and feasible for the ~~patient~~ respondent. The  
19 order shall state the categories of involuntary outpatient treatment as set forth in R.S.  
20 28:70, which the ~~patient~~ respondent is to receive, and the court may not order  
21 treatment that has not been recommended by the physician, psychiatric mental health  
22 nurse practitioner, or psychologist in consultation with the treatment team and  
23 included in the written treatment plan. The court shall not order an outpatient  
24 commitment unless ~~the director or his designee certifies~~ it is certified to the court  
25 that the services are available.

26 C. If the court finds by clear and convincing evidence that the ~~patient~~  
27 respondent meets the criteria for involuntary outpatient treatment, and a written  
28 proposed treatment plan has not been approved, the court shall order the director of  
29 the local governing entity to provide a plan and testimony within five days of the  
30 date of the order.

1           D. The court may order the patient respondent to self-administer psychotropic  
2           drugs or order the administration of such drugs by authorized personnel as part of an  
3           involuntary outpatient treatment program. The order shall specify the type of  
4           psychotropic drugs and it shall be effective for the duration of such involuntary  
5           outpatient treatment.

6           ~~E. If the petitioner is affiliated with a hospital that operates an involuntary~~  
7           ~~outpatient treatment program that is willing to treat the patient, the court order shall~~  
8           ~~direct the hospital to provide all available categories of involuntary outpatient~~  
9           ~~treatment services. If the hospital does not have such a program or if the patient is~~  
10          ~~discharged to a different local governing entity, or if the director of the local~~  
11          ~~governing entity has filed the petition and certified services are available, the court~~  
12          ~~order shall require the appropriate director to provide all available categories of~~  
13          ~~involuntary outpatient treatment services.~~

14          F. The treatment provider shall apply for court approval prior to instituting  
15          a proposed material change in the involuntary outpatient treatment order unless such  
16          change is contemplated in the order. For purposes of this Subsection, a material  
17          change shall mean an addition or deletion of a category of involuntary outpatient  
18          treatment service, or any deviation without the consent of the patient respondent  
19          from the terms of an existing order relating to the administration of psychotropic  
20          drugs, or a change of residence from one local governing entity to another. A  
21          material change shall not mean a change in the dosage or the specific psychotropic  
22          drug within the type ordered by the court. Any application for court approval shall  
23          be served upon all persons required to be served with notice of a petition for an order  
24          authorizing involuntary outpatient treatment. Either party may move for a hearing  
25          on the application. If a motion is not filed within five days from the date the  
26          application is filed, the court shall grant the application.

27          ~~G. F.~~ Failure to comply with an order of ~~assisted~~ assistive outpatient  
28          treatment shall not be grounds, in and of itself, for involuntary civil commitment or  
29          a finding of contempt of court.

1 §72. Application for additional periods of treatment

2 A. The court order for outpatient treatment shall expire at the end of the  
3 specified period unless a petition for an extension has been filed. If any person or  
4 entity authorized within R.S. 28:67 determines that a ~~patient~~ respondent requires  
5 further involuntary outpatient treatment, he shall file a petition for continued  
6 treatment prior to the expiration of the involuntary outpatient treatment ordered by  
7 the court. If a ~~patient~~ respondent has been ordered to receive outpatient treatment for  
8 four consecutive six-month to one-year periods, the period of any subsequent order  
9 may exceed one year but shall not exceed two years.

10 \* \* \*

11 §73. Application to stay, vacate, or modify

12 In addition to any right or remedy available by law, the ~~patient~~ respondent  
13 may apply to the court to stay, vacate, or modify the order based on a change in  
14 circumstances and he shall notify the director of the local governing entity or  
15 designee of his application.

16 \* \* \*

17 §75. Failure to comply with involuntary outpatient treatment

18 A. ~~If either party alleges noncompliance under the written treatment plan, a~~  
19 ~~judicial review can be scheduled and all persons listed in R.S. 28:69(A) are to~~  
20 ~~receive notice. When a physician, psychiatric mental health nurse practitioner, or~~  
21 ~~psychologist determines the respondent has failed to comply with the ordered~~  
22 ~~treatment, the local governing entity, case manager, or assertive community~~  
23 ~~treatment provider shall make reasonable efforts to solicit the compliance of the~~  
24 ~~respondent.~~

25 B. ~~When a physician, psychiatric mental health nurse practitioner, or~~  
26 ~~psychologist determines the patient has failed to comply with the ordered treatment,~~  
27 ~~efforts were made to solicit compliance by the local governing entity, case manager,~~  
28 ~~or assertive community treatment provider, and the patient may be in need of~~  
29 ~~involuntary admission to a treatment facility; If either party alleges noncompliance~~

1 despite the efforts referred to in Subsection A of this Section, a judicial hearing shall  
2 be scheduled and all persons listed in R.S. 28:69(A) are to receive notice.

3 C. When a physician, psychiatric mental health nurse practitioner, or  
4 psychologist determines that the respondent meets the relevant criteria, he may  
5 execute an emergency certificate in accordance with R.S. 28:53, request an order for  
6 custody in accordance with R.S. 28:53.2, or seek a judicial commitment in  
7 accordance with R.S. 28:54. Any period of hospitalization shall not invalidate the  
8 order for assistive outpatient treatment.

9 ~~C. If the patient~~ D. If the respondent refuses to take medication or refuses to  
10 take or fails blood or other laboratory tests as required by court order, the physician,  
11 psychiatric mental health nurse practitioner, or psychologist may consider his refusal  
12 in determining whether the ~~patient~~ respondent is in need of inpatient treatment  
13 services.

14 \* \* \*

15 §77. Fees and court costs

16 Assistive outpatient treatment proceedings shall be exempt from charges for  
17 filing fees or taxing of court costs.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_