

AN ACT

relating to representation of and by the state and joinder of the state in certain mental health proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 571.016, Health and Safety Code, is amended to read as follows:

Sec. 571.016. REPRESENTATION OF STATE. Unless specified otherwise, in a hearing held under this subtitle, including a hearing held under Subchapter G, Chapter 574:

(1) the county attorney shall represent the state; or

(2) if the county has no county attorney, the district attorney, the criminal district attorney, or a court-appointed special prosecutor shall represent the state.

SECTION 2. Chapter 571, Health and Safety Code, is amended by adding Section 571.0167 to read as follows:

Sec. 571.0167. HABEAS CORPUS PROCEEDINGS. (a) A petition for a writ of habeas corpus arising from a commitment order must be filed in the court of appeals for the county in which the order is entered.

(b) The state shall be made a party in a habeas corpus proceeding described in Subsection (a). The appropriate attorney prescribed by Section 571.016 shall represent the state.

(c) In a habeas corpus proceeding in which a state inpatient mental health facility or a physician employed by a state inpatient

1 mental health facility is a party as a result of enforcing a
2 commitment order, the appropriate attorney prescribed by Section
3 571.016 shall represent the facility or physician, or both the
4 facility and physician if both are parties, unless the attorney
5 determines that representation violates the Texas Disciplinary
6 Rules of Professional Conduct.

7 SECTION 3. The change in law made by this Act applies only
8 to a hearing or proceeding that commences on or after the effective
9 date of this Act. A hearing or proceeding that commences before the
10 effective date of this Act is governed by the law in effect on the
11 date the hearing or proceeding commenced, and the former law is
12 continued in effect for that purpose.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 3342 was passed by the House on May 3, 2011, by the following vote: Yeas 144, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3342 on May 21, 2011, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3342 was passed by the Senate, with amendments, on May 18, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor