

By: Naishtat

H.B. No. 3342

A BILL TO BE ENTITLED

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) The state shall be made a party in a habeas corpus proceeding in which an inpatient mental health facility or physician is a party as a result of enforcing a commitment order.

(b) In a habeas corpus proceeding described in Subsection (a), the appropriate attorney prescribed by Section 571.016 shall represent the inpatient mental facility or physician and the state.

SECTION 3. The change in law made by this Act applies only to a hearing or proceeding that commences on or after the effective

1 date of this Act. A hearing or proceeding that commences before the
2 effective date of this Act is governed by the law in effect on the
3 date the hearing or proceeding commenced, and the former law is
4 continued in effect for that purpose.

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