

House Bill 3342
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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.

SENATE VERSION (CS)

SECTION 1. Same as House version.

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

CONFERENCE

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

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

SENATE VERSION (CS)

SECTION 3. Same as House version.

SECTION 4. Same as House version.

CONFERENCE