

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 3342  
By: Naishtat (Rodriguez)  
Health & Human Services  
5/12/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.H.B. 3342 amends current law relating to representation of and by the state and joinder of the state in certain mental health proceedings.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 571.016, Health and Safety Code, as follows:

Sec. 571.016. REPRESENTATION OF STATE. Provides that unless specified otherwise, in a hearing held under this subtitle, including a hearing held under Subchapter G (Administration of Medication to Patient Under Order For Inpatient Mental Health Services), Chapter 574 (Court-Ordered Mental Health Services):

- (1) the county attorney is required to 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 is required to represent the state.

SECTION 2. Amends Chapter 571, Health and Safety Code, by adding Section 571.0167, as follows:

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

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

(c) Requires an appropriate attorney prescribed by Section 571.016, in a habeas corpus proceeding in which a state inpatient mental health facility or a physician employed by a state inpatient mental health facility is a party as a result of enforcing a commitment order, to represent the facility or the 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.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2011.