

BILL ANALYSIS

H.B. 3342
By: Naishtat
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Observers note that different types of court proceedings can occur if a person is ordered to receive mental health services, including a hearing regarding the administration of medication to a patient under order for inpatient mental health services and a habeas corpus proceeding. Interested parties report that while a county attorney is required to represent the state in such proceedings, there have been some instances where the county attorney has refused to do so. The parties further note that the county attorney's responsibility to represent a mental health facility or physician on behalf of the state in certain habeas corpus proceedings is inadequately addressed by current law and that this can essentially force private hospitals and physicians to pay out-of-pocket for a lawyer's services. H.B. 3342 seeks to address matters relating to representation of and by the state and joinder of the state in certain mental health proceedings.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3342 amends the Health and Safety Code to clarify that a hearing regarding the administration of medication to a patient under order for inpatient mental health services is included among the hearings held under the Texas Mental Health Code in which the state is represented by the county attorney or, if the county has no county attorney, the district attorney, the criminal district attorney, or a court-appointed special prosecutor. The bill requires the state to 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. The bill requires the appropriate attorney, prescribed by provisions of the Texas Mental Health Code relating to representation of the state, to represent the inpatient mental facility or physician and the state in such a proceeding.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.