

SENATE AMENDMENTS

2nd Printing

By: Naishtat

H.B. No. 3342

A BILL TO BE ENTITLED

AN ACT

1
2 relating to representation of and by the state and joinder of the
3 state in certain mental health proceedings.

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

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

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

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

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

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

16 Sec. 571.0167. HABEAS CORPUS PROCEEDINGS. (a) The state
17 shall be made a party in a habeas corpus proceeding in which an
18 inpatient mental health facility or physician is a party as a result
19 of enforcing a commitment order.

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

23 SECTION 3. The change in law made by this Act applies only
24 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.

ADOPTED

MAY 18 2011

Atty Gen
Secretary of the Senate

By: NAISHTAT

H.B. No. 3342

Substitute the following for H.B. No. 3342

By: *Jose Rodriguez*

C.S. H.B. No. 3342

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8 otherwise, in a hearing held under this subtitle, including a
9 hearing held under Subchapter G, Chapter 574:

- 10 (1) the county attorney shall represent the state; or
11 (2) if the county has no county attorney, the district
12 attorney, the criminal district attorney, or a court-appointed
13 special prosecutor shall represent the state.

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

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

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

23 (c) In a habeas corpus proceeding in which a state inpatient
24 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 to
8 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 a
14 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.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 18, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3342 by Naishtat (Relating to representation of and by the state and joinder of the state in certain mental health proceedings.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill clarifies that the state shall be made 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 specifies that an appropriate attorney prescribed by Section 571.016 shall represent the state and when necessary certain inpatient mental health facilities and/or physicians in these proceedings.

According to the Department of State Health Services (DSHS) this provision reflects current practice and therefore should not result in any additional cost to the State.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, SD, KKR, CL, MB, JF, NB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 16, 2011

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3342 by Naishtat (Relating to representation of and by the state and joinder of the state in certain mental health proceedings.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill clarifies that the state shall be made 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 specifies that an appropriate attorney prescribed by Section 571.016 shall represent the state and when necessary certain inpatient mental health facilities and/or physicians in these proceedings.

According to the Department of State Health Services (DSHS) this provision reflects current practice and therefore should not result in any additional cost to the State.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, KKR, CL, MB, JF, NB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 11, 2011

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3342 by Naishtat (Relating to representation of and by the state and joinder of the state in certain mental health proceedings.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill clarifies that the state shall be made 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.

According to the Department of State Health Services (DSHS) this provision reflects current practice and therefore should not result in any additional cost to the State.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, MB, JF, NB, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 18, 2011

TO: Honorable Richard Pena Raymond, Chair, House Committee on Human Services

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3342 by Naishtat (Relating to representation of and by the state and joinder of the state in certain mental health proceedings.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill clarifies that the state shall be made 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.

According to the Department of State Health Services (DSHS) this provision reflects current practice and therefore should not result in any additional cost to the State.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 537 State Health Services, Department of

LBB Staff: JOB, CL, MB, JF, NB, KKR