

RQ-0020-JC

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January 22, 1999

Honorable John Cornyn
Attorney General of Texas
Opinions Committee
P.O. Box 12548
Austin, Texas 78711-2548

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FILE # ML-40632-99 AN 25 1999
I.D. # 40632 Opinion Committee

RE: Request for Legal Opinion

To Whom It May Concern:

I am writing to request a legal opinion on the following question:

Article 6.301 of the Texas Family Code contains the general rule relating to the residency requirement for persons filing for divorce. Article 15.019 of the Texas Civil Practice and Remedies Code contains the rule governing venue in prison inmate litigation with the specific proviso: "This section does not apply to an action brought under the family code.". May the District Clerk, pursuant to court order, in counties where prison units operated by the Texas Department of Criminal Justice are located, decline to file petitions under the Family Code (divorce, etc.), where the residency requirement is based on time served in prison, ("suspect of bad faith" under Cook v. Mayfield, 886 S.W.2d 840) and by virtue of Article 15.019 of the Texas Civil Practice and Remedies Code?

If you require additional information regarding this, please feel free to contact me.

Sincerely,

Kay Douglas

Kay Douglas
Assistant Criminal District Attorney