By:  A. Johnson of Harris (Senate Sponsor - Huffman) H.B. No. 4338

(In the Senate - Received from the House May 17, 2021; May 17, 2021, read first time and referred to Committee on Criminal Justice; May 22, 2021, reported favorably by the following vote: Yeas 7, Nays 0; May 22, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Bettencourt     X

Birdwell        X

Hinojosa        X

Miles           X

Nichols         X

A BILL TO BE ENTITLED

AN ACT

relating to the representation of a community supervision and corrections department in cases in which a person under the supervision of that department challenges the fact or duration of the supervision.

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

SECTION 1.  Section 76.006, Government Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d)  The attorney general has the duty to defend a department for suits for injunctive, declaratory, or monetary relief brought against it for any action not covered by an indemnification policy, except any action brought by the state or another political subdivision.

(d-1)  If a person under the supervision of a department challenges the fact or duration of the supervision, the attorney general or the district or county attorney with jurisdiction over the offense for which the person is under supervision shall defend the department or its employees. The attorney general must defend the department or its employees in a case described by this subsection if the district or county attorney is unable to defend the department or its employees, as applicable. At the request of a district or county attorney, the [~~The~~] attorney general may provide assistance to the district or county attorney in defending [~~shall not defend~~] a department or its employees in cases described by this subsection [~~in which a person under supervision challenges the fact or duration of the supervision~~].

SECTION 2.  Section 76.006(d-1), Government Code, as added by this Act, applies only to a case described by that subsection that is initiated on or after the effective date of this Act. A case that is initiated before the effective date of this Act is governed by the law in effect on the date the case was initiated, and the former law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2021.

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