

By: A. Johnson of Harris

H.B. No. 4338

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

15 (d-1) If a person under the supervision of a department
16 challenges the fact or duration of the supervision, the attorney
17 general or the district or county attorney with jurisdiction over
18 the offense for which the person is under supervision shall defend
19 the department or its employees. The attorney general must defend
20 the department or its employees in a case described by this
21 subsection if the district or county attorney is unable to defend
22 the department or its employees, as applicable. At the request of a
23 district or county attorney, the [The] attorney general may provide
24 assistance to the district or county attorney in defending [shall

1 ~~not defend]~~ a department or its employees in cases described by this
2 subsection [~~in which a person under supervision challenges the fact~~
3 ~~or duration of the supervision]~~].

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

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