

By: A. Johnson of Harris

H.B. No. 4338

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the duty of the attorney general to represent community
3 supervision and corrections departments in certain habeas corpus
4 proceedings.

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

6 SECTION 1. Section 76.006(d), Government Code, is amended
7 to read as follows:

8 (d) The attorney general has the duty to defend a department
9 for suits for injunctive, declaratory, or monetary relief brought
10 against it for any action not covered by an indemnification policy,
11 except any action brought by the state or another political
12 subdivision. The attorney general shall ~~[not]~~ defend a department
13 or its employees in a habeas corpus proceeding under Chapter 11,
14 Code of Criminal Procedure, [cases] in which a person under
15 supervision challenges the fact or duration of the supervision if
16 the attorney representing the state in the prosecution of the
17 offense for which the person was placed on community supervision
18 does not agree to represent the department or its employees, as
19 applicable, in the habeas corpus proceeding.

20 SECTION 2. The change in law made by this Act applies only
21 to a habeas corpus proceeding for which an application for a writ of
22 habeas corpus is filed on or after the effective date of this Act. A
23 habeas corpus proceeding for which an application is filed before
24 the effective date of this Act is governed by the law in effect when

1 the application was filed, and the former law is continued in effect
2 for that purpose.

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