

BILL ANALYSIS

Senate Research Center
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H.B. 4338
By: Johnson, Ann (Huffman)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Community supervision and corrections departments (CSCDs) are defended by the Texas Office of Attorney General for all suits against them, except for writs of habeas corpus. When a county district attorney refuses a habeas corpus case, the named individual bears the cost of counsel whose expertise is litigating those cases. Relying on individual employees to hire private counsel, who rarely practice in the public habeas docket, creates an ineffective and unjust system. H.B. 4338 specifies that the Office of the Attorney General is responsible for representing a CSCD when prosecuting attorneys refuse habeas corpus cases.

H.B. 4338 amends current law 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.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

(d) Creates Subsection (d-1) from a portion of this subsection and makes no further changes.

(d-1) Requires the attorney general or the district or county attorney with jurisdiction over the offense for which the person is under supervision, if a person under the supervision of a community supervision and corrections department (department) challenges the fact or duration of the supervision, to defend the department or its employees. Requires the attorney general to 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. Authorizes the attorney general, at the request of a district or county attorney, to provide assistance to the district or county attorney in defending a department or its employees in cases described by this subsection. Deletes text prohibiting the attorney general from defending a department or its employees in cases in which a person under supervision challenges the fact or duration of the supervision.

SECTION 2. Makes application of Section 76.006(d-1), Government Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2021.