

By: Martinez Fischer

H.B. No. 4699

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the appointment of an attorney pro tem for certain
3 criminal proceedings.

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

5 SECTION 1. Article 2.07, Code of Criminal Procedure, is
6 amended by amending Subsections (a), (c), (e), (f), (g) to read as
7 follows:

8 (a) Whenever an attorney for the state is disqualified to
9 act in any case or proceeding, is absent from the county or
10 district, or is otherwise unable to perform the duties of the
11 attorney's office, or in any instance where there is no attorney for
12 the state, the judge of the court in which the attorney represents
13 the state may appoint, from any county or district, an attorney for
14 the state or may appoint an assistant attorney general to perform
15 the duties of the office during the absence or disqualification of
16 the attorney for the state. However, if after a reasonable effort
17 has been made to appoint an attorney for the state from another
18 county or district, or assistant attorney general and a commitment
19 to take the appointment has not been received, the court may appoint
20 any competent counsel.

21 (b) Except as otherwise provided by this subsection, the
22 duties of the appointed office are additional duties of the
23 appointed attorney's present office, and the attorney is not
24 entitled to additional compensation. This subsection does not

1 prevent a commissioners court of a county from contracting with
2 another commissioners court to pay expenses and reimburse
3 compensation paid by a county to an attorney who is appointed to
4 perform additional duties. (b-1) An attorney for the state who is
5 not disqualified to act may request the court to permit the
6 attorney's recusal in a case for good cause, and on approval by the
7 court, the attorney is disqualified.

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9 act may request the court to permit the attorney's recusal in a case
10 for good cause, and on approval by the court, the attorney is
11 disqualified.

12 (c) ~~Repealed by Acts 2019, 86th Leg., R.S., Ch. 580 (S.B.~~
13 ~~341), Sec. 4, eff. September 1, 2019.~~ If the appointed attorney is
14 not an attorney for the state, he is qualified to perform the duties
15 of the office for the period of absence or disqualification of the
16 attorney for the state on filing an oath with the clerk of the
17 court. He shall receive compensation in the same amount and manner
18 as an attorney appointed to represent an indigent person.

19 (d) In this article, "attorney for the state" means a county
20 attorney with criminal jurisdiction, a district attorney, or a
21 criminal district attorney.

22 (e) ~~Repealed by Acts 2019, 86th Leg., R.S., Ch. 580 (S.B.~~
23 ~~341), Sec. 4, eff. September 1, 2019.~~ In Subsections (b) and (c) of
24 this article, "attorney for the state" includes an assistant
25 attorney general.

26 (f) ~~Repealed by Acts 2019, 86th Leg., R.S., Ch. 580 (S.B.~~
27 ~~341), Sec. 4, eff. September 1, 2019.~~ In Subsection (a) of this

1 article, "competent attorney" includes an assistant attorney
2 general.

3 ~~(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 580 (S.B.~~
4 ~~341), Sec. 4, eff. September 1, 2019.~~ (g) An attorney appointed
5 under Subsection (a) of this article to perform the duties of the
6 office of an attorney for the state in a justice or municipal court
7 may be paid a reasonable fee for performing those duties.

8 SECTION 2. The change in law made by this Act in amending
9 Article 2.07, Code of Criminal Procedure, applies only to the
10 appointment of an attorney pro tem that occurs on or after the
11 effective date of this Act. The appointment of an attorney pro tem
12 that occurs before the effective date of this Act is governed by the
13 law in effect on the date the attorney pro tem was appointed, and
14 the former law is continued in effect for that purpose.

15 SECTION 3. This Act takes effect September 1, 2023.