

By: Noriega

H.B. No. 414

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the appointment of a special prosecutor in certain
3 criminal proceedings in which the defendant is a peace officer.

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

5 SECTION 1. Article 2.08, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 2.08. DISQUALIFIED. (a) District and county
8 attorneys shall not be of counsel adversely to the State in any
9 case, in any court, nor shall they, after they cease to be such
10 officers, be of counsel adversely to the State in any case in which
11 they have been of counsel for the State.

12 (b) The attorney for the state or an attorney employed by
13 the office of the attorney for the state may not represent the state
14 in the prosecution of a felony or Class A misdemeanor charge filed
15 against a peace officer serving an area also served by the attorney
16 and the office of the attorney. After a disqualification required
17 by this subsection, a court who appoints an attorney pro tem under
18 Article 2.07 may not appoint a person who has prosecuted cases
19 before the court in the five years preceding the appointment.

20 SECTION 2. (a) This Act takes effect September 1, 2003.

21 (b) The change in law made by this Act applies only to the
22 prosecution of an offense committed on or after the effective date
23 of this Act. The prosecution of an offense committed before the
24 effective date of this Act is covered by the law in effect when the

1 offense was committed, and the former law is continued in effect for
2 that purpose. For purposes of this subsection, an offense was
3 committed before the effective date of this Act if any element of
4 the offense was committed before that date.