

1-1 By: Huffman S.B. No. 2189
1-2 (In the Senate - Filed March 10, 2017; March 29, 2017, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 12, 2017, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 12, 2017,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Schwertner	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2189 By: Hughes

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the appointment of an attorney pro tem for certain
1-22 criminal proceedings.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Articles 2.07(a), (b), (b-1), and (d), Code of
1-25 Criminal Procedure, are amended to read as follows:

1-26 (a) Whenever an attorney for the state is disqualified to
1-27 act in any case or proceeding, is absent from the county or
1-28 district, or is otherwise unable to perform the duties of the
1-29 attorney's [his] office, or in any instance where there is no
1-30 attorney for the state, the judge of the court in which the attorney
1-31 [he] represents the state may appoint, from any county or district,
1-32 an [any competent] attorney for the state or may appoint an
1-33 assistant attorney general to perform the duties of the office
1-34 during the absence or disqualification of the attorney for the
1-35 state.

1-36 (b) Except as otherwise provided by this subsection, [~~if the~~
1-37 ~~appointed attorney is also an attorney for the state,~~] the duties of
1-38 the appointed office are additional duties of the appointed
1-39 attorney's [his] present office, and the attorney [he] is not
1-40 entitled to additional compensation. This subsection does not
1-41 [Nothing herein shall] prevent a commissioners court of a county
1-42 from contracting with another commissioners court to pay expenses
1-43 and reimburse compensation paid by a county to an attorney [~~for the~~
1-44 state] who is appointed to perform additional duties.

1-45 (b-1) An attorney for the state who is not disqualified to
1-46 act may request the court to permit the attorney's recusal [him to
1-47 recuse himself] in a case for good cause, and on [upon] approval by
1-48 the court the attorney is disqualified.

1-49 (d) In this article, "attorney for the state" means a county
1-50 attorney with criminal jurisdiction, a district attorney, or a
1-51 criminal district attorney.

1-52 SECTION 2. Article 52.09(c), Code of Criminal Procedure, is
1-53 amended to read as follows:

1-54 (c) An attorney pro tem appointed under Article 52.01(d) [~~of~~
1-55 ~~this code]~~ is entitled to compensation in the same amount and manner
1-56 as an attorney appointed to represent an indigent person [pro tem
1-57 appointed under Article 2.07 of this code]. The district judge
1-58 shall set the compensation of the attorney pro tem based on the
1-59 sworn testimony of the attorney or other evidence that is given in
1-60 open court.

2-1 SECTION 3. Section 574.004, Government Code, is amended to
2-2 read as follows:

2-3 Sec. 574.004. ASSISTANCE BY ATTORNEY GENERAL. This
2-4 [~~Nothing in this~~] chapter does not [~~shall~~] prevent the attorney
2-5 general from providing assistance to district attorneys, criminal
2-6 district attorneys, and county attorneys on request by allowing
2-7 assistant attorneys general to serve as duly appointed and
2-8 deputized assistant prosecutors, nor does [~~shall~~] this chapter
2-9 prohibit the appointment of an assistant attorney general as an
2-10 attorney pro tem pursuant to Article 2.07, Code of Criminal
2-11 Procedure.

2-12 SECTION 4. Articles 2.07(c), (e), (f), and (g), Code of
2-13 Criminal Procedure, are repealed.

2-14 SECTION 5. The change in law made by this Act in amending
2-15 Article 2.07, Code of Criminal Procedure, applies only to the
2-16 appointment of an attorney pro tem that occurs on or after the
2-17 effective date of this Act. The appointment of an attorney pro tem
2-18 that occurs before the effective date of this Act is governed by the
2-19 law in effect on the date the attorney pro tem was appointed, and
2-20 the former law is continued in effect for that purpose.

2-21 SECTION 6. This Act takes effect September 1, 2017.

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