By:  Martinez Fischer H.B. No. 4699

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of an attorney pro tem for certain criminal proceedings.

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

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

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

(b)  Except as otherwise provided by this subsection, the duties of the appointed office are additional duties of the appointed attorney's present office, and the attorney is not entitled to additional compensation. This subsection does not prevent a commissioners court of a county from contracting with another commissioners court to pay expenses and reimburse compensation paid by a county to an attorney who is appointed to perform additional duties. (b-1) An attorney for the state who is not disqualified to act may request the court to permit the attorney's recusal in a case for good cause, and on approval by the court, the attorney is disqualified.

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(c)  ~~Repealed by Acts 2019, 86th Leg., R.S., Ch. 580 (S.B. 341 ), Sec. 4, eff.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

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

(e)  ~~Repealed by Acts 2019, 86th Leg., R.S., Ch. 580 (S.B. 341 ), Sec. 4, eff.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

(f)  ~~Repealed by Acts 2019, 86th Leg., R.S., Ch. 580 (S.B. 341 ), Sec. 4, eff. September 1, 2019.~~ In Subsection (a) of this article, "competent attorney" includes an assistant attorney general.

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

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

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