

By: Garcia

H.B. No. 5041

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) and (b) and adding Subsections (c), (c-1), and (e) 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 any competent attorney [~~, 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. For purposes of this subsection, "competent attorney" includes an assistant attorney general.

(b) Except as otherwise provided by this subsection, if the appointed attorney is also an attorney for the state, 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 for the state who is appointed to perform additional duties.

(c) If the appointed attorney under Subsection (a) is not an attorney for the state, the attorney is qualified to perform the duties of the office, for the period of absence or disqualification of the attorney for the state, on the filing of an oath with the clerk of the court. An attorney described by this subsection is entitled to receive compensation in the same amount and manner as an attorney appointed to represent an indigent person.

(c-1) An attorney appointed under Subsection (a) 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.

(e) In Subsections (b) and (c) of this article, "attorney for the state" includes an assistant attorney general.

SECTION 2. This Act takes effect September 1, 2023.