

1-1 By: Huffman S.B. No. 341
1-2 (In the Senate - Filed January 11, 2019; February 7, 2019,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 6, 2019, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 6, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Fallon	X		
1-13	Hall	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the appointment of an attorney pro tem for certain
1-20 criminal proceedings.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Articles 2.07(a), (b), (b-1), and (d), Code of
1-23 Criminal Procedure, are amended to read as follows:

1-24 (a) Whenever an attorney for the state is disqualified to
1-25 act in any case or proceeding, is absent from the county or
1-26 district, or is otherwise unable to perform the duties of the
1-27 attorney's [his] office, or in any instance where there is no
1-28 attorney for the state, the judge of the court in which the attorney
1-29 [he] represents the state may appoint, from any county or district,
1-30 an [any competent] attorney for the state or may appoint an
1-31 assistant attorney general to perform the duties of the office
1-32 during the absence or disqualification of the attorney for the
1-33 state.

1-34 (b) Except as otherwise provided by this subsection, [~~if the~~
1-35 ~~appointed attorney is also an attorney for the state,~~] the duties of
1-36 the appointed office are additional duties of the appointed
1-37 attorney's [his] present office, and the attorney [he] is not
1-38 entitled to additional compensation. This subsection does not
1-39 [Nothing herein shall] prevent a commissioners court of a county
1-40 from contracting with another commissioners court to pay expenses
1-41 and reimburse compensation paid by a county to an attorney [for the
1-42 state] who is appointed to perform additional duties.

1-43 (b-1) An attorney for the state who is not disqualified to
1-44 act may request the court to permit the attorney's recusal [him to
1-45 recuse himself] in a case for good cause, and on [upon] approval by
1-46 the court, the attorney is disqualified.

1-47 (d) In this article, "attorney for the state" means a county
1-48 attorney with criminal jurisdiction, a district attorney, or a
1-49 criminal district attorney.

1-50 SECTION 2. Article 52.09(c), Code of Criminal Procedure, is
1-51 amended to read as follows:

1-52 (c) An attorney pro tem appointed under Article 52.01(d) [~~of~~
1-53 ~~this code]~~ is entitled to compensation in the same amount and manner
1-54 as an attorney appointed to represent an indigent person [pro tem
1-55 appointed under Article 2.07 of this code]. The district judge
1-56 shall set the compensation of the attorney pro tem based on the
1-57 sworn testimony of the attorney or other evidence that is given in
1-58 open court.

1-59 SECTION 3. Section 574.004, Government Code, is amended to
1-60 read as follows:

1-61 Sec. 574.004. ASSISTANCE BY ATTORNEY GENERAL. This

2-1 ~~[Nothing in this]~~ chapter does not ~~[shall]~~ prevent the attorney
2-2 general from providing assistance to district attorneys, criminal
2-3 district attorneys, and county attorneys on request by allowing
2-4 assistant attorneys general to serve as duly appointed and
2-5 deputized assistant prosecutors, nor does ~~[shall]~~ this chapter
2-6 prohibit the appointment of an assistant attorney general as an
2-7 attorney pro tem pursuant to Article 2.07, Code of Criminal
2-8 Procedure.

2-9 SECTION 4. Articles 2.07(c), (e), (f), and (g), Code of
2-10 Criminal Procedure, are repealed.

2-11 SECTION 5. The change in law made by this Act in amending
2-12 Article 2.07, Code of Criminal Procedure, applies only to the
2-13 appointment of an attorney pro tem that occurs on or after the
2-14 effective date of this Act. The appointment of an attorney pro tem
2-15 that occurs before the effective date of this Act is governed by the
2-16 law in effect on the date the attorney pro tem was appointed, and
2-17 the former law is continued in effect for that purpose.

2-18 SECTION 6. This Act takes effect September 1, 2019.

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