

BILL ANALYSIS

Senate Research Center

S.B. 341
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Code of Criminal Procedure and the Texas Government Code specify who may serve as an attorney pro tem. That is, who may stand in as an attorney for the state when such an attorney is disqualified to act in a case or proceeding, is absent from the county or district, or is otherwise unable to perform the duties of their office.

S.B. 341 provides that only prosecutors (county attorneys with criminal jurisdiction, district attorneys, or criminal district attorneys or their assistants) and assistant attorneys general may serve as attorneys pro tem. (Original Author's/Sponsor's Statement of Intent)

S.B. 341 amends current law relating to the appointment of an attorney pro tem for certain criminal proceedings.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Articles 2.07(a), (b), (b-1), and (d), Code of Criminal Procedure, as follows:

(a) Authorizes the judge of a court in which an attorney represents the state, whenever the attorney for the state is disqualified to act in any case of 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, to appoint, from any county or district, an attorney for the state or to appoint an assistant attorney general, rather than appoint any competent authority, to perform the duties of the office during the absence or disqualification of the attorney for the state. Makes nonsubstantive changes.

(b) Makes nonsubstantive changes and deletes existing text relating to an appointed attorney also being an attorney for the state.

(b-1) Makes nonsubstantive changes to this subsection.

(d) Provides that the definition of "attorney for the state" includes a county attorney with criminal jurisdiction.

SECTION 2. Amends Article 52.09(c), Code of Criminal Procedure, as follows:

(c) Entitles an attorney pro tem appointed under Article 52.01(d) (relating to the appointment of an attorney pro tem) to compensation in the same amount and manner as an attorney appointed to represent an indigent person, rather than in the same manner as an attorney pro tem appointed under Article 2.07 (Attorney Pro Tem) of this code. Makes a nonsubstantive change.

SECTION 3. Amends Section 574.004, Government Code, to make nonsubstantive changes.

SECTION 4. Repealer: Article 2.07(c) (relating to provisions if the appointed attorney is not an attorney for the state), Code of Criminal Procedure.

Repealer: Article 2.07(e) (relating to the definition of "attorney for the state"), Code of Criminal Procedure.

Repealer: Article 2.07(f) (relating to the definition of "competent attorney"), Code of Criminal Procedure.

Repealer: Article 2.07(g) (relating to payment for appointed attorneys), Code of Criminal Procedure.

SECTION 5. Makes application of Article 2.07, Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 6. Effective date: September 1, 2019.