

SUBJECT: Revising procedures for appointing an attorney pro tem

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline
0 nays

WITNESSES: For — Kathleen Person, Texas Municipal Courts Association (*Registered, but did not testify*; Kai Bovik; Ray Hunt, Houston Police Officer's Union; Deanna L. Kuykendall, Texas Municipal Courts Association)
Against — None

BACKGROUND: Code of Criminal Procedure art. 2.07 establishes the general duties of an attorney pro tem, meaning an attorney from any county or district who is appointed by a judge to perform the duties of the state attorney's office, in such cases where the attorney is disqualified to act, absent, or otherwise unable to perform the duties of the attorney's office or in any instance where there is no attorney for the state.

Art. 45.031 of the code establishes that if the state is not represented by counsel when the case is called for trial, the justice or judge may postpone the trial to a certain date, appoint an attorney pro tem to represent the state, or proceed to trial.

Some have suggested that the procedures for appointing an attorney pro tem to represent the state in the prosecution of misdemeanor offenses in the jurisdiction of municipal and justice courts should be clarified.

DIGEST: HB 1603 would amend provisions relating to appointment of an attorney pro tem in the jurisdiction of municipal and justice courts.

The bill would authorize a judge or justice of a municipal or justice court to appoint any competent attorney as an attorney pro tem to represent the

state. The appointed attorney would be qualified to perform the duties of the office of the attorney representing the state and could be paid a reasonable fee.

The bill would take effect September 1, 2023, and would apply only to a trial that began on or after that date.