

## CHAPTER 210

## H.B. No. 2381

An Act relating to the creation of the County Court at Law of Henderson County.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1. CREATION.** The County Court at Law of Henderson County is created.

**SECTION 2. JURISDICTION.** (a) The county court at law has concurrent civil jurisdiction with the district court in:

(1) cases in which the matter in controversy exceeds \$500 and does not exceed \$50,000 excluding interest, court costs, and attorney's fees in cases in which attorney's fees are taxed as costs of court;

(2) appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy;

(3) cases and proceedings involving adoptions, birth records, or removal of disability of minority or coverture; change of names of persons; child welfare, custody, support and reciprocal support, dependency, neglect, or delinquency; paternity; termination of parental rights; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved therein, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings;

(4) cases and proceedings involving juveniles under Title 3, Family Code; and

(5) causes and proceedings concerning eminent domain cases, regardless of the amount in controversy.

(b) The county court at law has concurrent jurisdiction with the county court in:

(1) all civil and criminal cases and proceedings, original and appellate, prescribed by law for county courts;

(2) probate matters and proceedings; and

(3) mental illness matters under the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes).

(c) The county court at law does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business that is within the jurisdiction of the commissioners court. The judge of the county court retains and shall exercise all ex officio duties of his office.

**SECTION 3. POWERS AND DUTIES.** (a) The County Court at Law of Henderson County or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court, and set and approve sequestration bonds and replevy bonds in excess of the \$50,000 jurisdictional amount in cases in which the amount of the suit is less than that amount. It may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or any other court of inferior jurisdiction in the county.

(b) The county court at law or its judge may punish for contempt as prescribed by general law.

(c) The judge of the county court at law has the powers, duties, immunities, and privileges provided by law for county court judges.

**SECTION 4. TERMS OF COURT.** The terms of court begin on the first Mondays in January and July of each year. Each term of court continues until the next succeeding term begins.

**SECTION 5. JUDGE.** (a) The judge of the county court at law must have the qualifications required of district judges.

(b) The commissioners court shall fix the annual salary of the judge of the county court at law at any sum not less than \$40,000. The annual salary shall be paid in equal monthly installments.

(c) The commissioners court shall appoint a person to fill a vacancy in the office of judge of the county court at law. The appointee holds office until the next succeeding general election and until his successor is elected and has qualified.

(d) At the first general election at which county court at law judges are regularly elected following creation of the court, and every fourth year thereafter, the qualified voters of the county shall elect a judge of the county court at law for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(e) The judge of the county court at law shall take the oath of office prescribed by the constitution.

(f) The judge of the county court at law may not engage in the private practice of law.

(g) The judge of the county court at law is a member of the county juvenile board.

**SECTION 6. COURT OFFICIALS, PERSONNEL, AND FACILITIES.** (a) The judge of the county court at law shall appoint an official court reporter. The court reporter must have the qualifications prescribed by law for that office and shall be paid the same amount of compensation, fees, and allowances as the reporter of the district court.

(b) The judge of the county court at law may appoint a court coordinator or administrative assistant for the court. A court coordinator or administrative assistant performs the duties prescribed by the judge and cooperates with the administrative judges and state agencies for the uniform and efficient operation of the courts and the administration of justice. The court coordinator or administrative assistant is entitled to receive from county funds an annual salary in the amount set by the commissioners court. The salary shall be paid in monthly installments.

(c) The county attorney shall attend the county court at law as required by the judge. The court clerk serves as clerk of the county court of law, except that, in matters within the concurrent jurisdiction of the county court at law and the district court, the judges may provide, in the rules adopted under Section 10(b) of this Act, for the district clerk to serve as clerk of the court.

(d) The commissioners court shall provide the physical facilities, the deputy clerks, bailiffs, secretaries, and other personnel necessary to operate the county court at law.

**SECTION 7. SPECIAL JUDGE.** (a) If the regular judge of the county court at law is absent, is from any cause disabled for more than 30 calendar days, or is disqualified from presiding, the presiding judge of the administrative judicial district in which the county is located may appoint a qualified person licensed to practice law in this state as a special judge.

(b) To be eligible for appointment as a special judge, the person must meet the qualifications of the regular judge.

(c) A special judge shall take the oath of office required for the regular judge and has the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as "Judge Presiding" when acting for the regular judge.

(d) A special judge is entitled to receive for the services actually performed the same amount of compensation that the regular judge is entitled to receive for the services. The compensation shall be paid out of the county funds on certification by the presiding judge of the administrative judicial district that the special judge has rendered the services and is entitled to receive the compensation. None of the amount paid to a special judge for sitting for the regular judge may be deducted or paid out of the salary of the regular judge. A special judge may not be appointed if the regular judge is attending conferences or schools of instruction sponsored by or at the behest of the state bar or is taking regular vacation and reasonable notice is given to members of the local bar association.

**SECTION 8. VISITING JUDGE.** (a) If a regular judge of the county court at law is absent, or is from any cause disabled or disqualified from presiding, the presiding judge of the administrative judicial district in which the county is located may appoint a retired judge of a district court or county court at law, or a regular judge of a district court or county court at law to preside over the county court at law. The presiding judge of the judicial district with the consent of a retired judge of a district court or county court at law, or a regular judge of a district court within his district, may make an assignment outside the judicial district in which he presides with the specific authorization of the presiding judge of the judicial district in which the assignment is made.

(b) A retired judge of a district court or a retired county court at law judge may elect to be a judicial officer by filing the written election with the presiding judge of the judicial district in

which the judge resides. A judge may not be appointed special judge or visiting judge if the judge:

- (1) appears and pleads as an attorney at law in any court of this state;
  - (2) has been defeated in an election for judge of the court over which he formerly presided;
  - (3) has been removed from office by impeachment, by the supreme court, or by the governor on address of the legislature;
  - (4) has been discharged from the practice of law, whether or not reinstated; or
  - (5) has resigned as judge of a court while under investigation by the State Commission on Judicial Conduct.
- (c) A visiting judge has the same authority and powers and is entitled to the same amount of compensation as provided for special judges by this Act.

**SECTION 9. TRANSFER OF CASES; EXCHANGE OF BENCHES.** (a) On motion of a party or on their own motion, the judges of the county court at law and district courts in the county may, on agreement of the parties, transfer civil cases and proceedings to and from the dockets of their respective courts, except that a case or proceeding may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and may not be transferred unless it is within the jurisdiction of the court to which it is transferred. If a judge is disqualified in a case or proceeding, he must transfer the case or proceeding from his court to another.

(b) When a case is transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred are required to appear before the court to which the case is transferred as if originally issued out of the court to which the transfer is made.

**SECTION 10. JURIES, PRACTICE, AND PROCEDURE.** (a) The drawing of jury panels, selection of jurors, and practice in the county court at law must conform to that prescribed by general law for county courts, except that practice, procedure, rules of evidence, issuance of process and writs, juries, and all other matters pertaining to the conduct of trials and hearings in the county court at law in those matters in which the court has concurrent jurisdiction with the district courts shall be governed by the constitution, law, and rules pertaining to district courts. The jury in the county court at law shall be composed of 12 persons in all cases in which the county court at law has concurrent jurisdiction with the district courts, but the parties may by consent agree in a particular case to try with a lesser number.

(b) In matters within their concurrent jurisdiction, the judges of the county court at law and district courts in the county shall adopt the rules governing the filing and numbering of cases, the assignment of cases for trial, and the distribution of the work of those courts that they consider necessary or desirable for the orderly dispatch of business of those courts except that the judges may not adopt rules inconsistent with law, the Texas Rules of Civil Procedure, or the Rules of Post Trial and Appellate Procedure in Criminal Cases. The rules must provide for either the county clerk or the district clerk to serve as clerk of the county court at law in matters within the concurrent jurisdiction of the county court at law and the district court.

**SECTION 11. SEAL.** The seal of the court is the same as that provided by law for county courts, except that the seal must contain the words "County Court at Law, Henderson County, Texas."

**SECTION 12. INITIAL TERM.** The initial term of the County Court at Law of Henderson County begins on the first Monday of the first month following the effective date of this Act.

**SECTION 13. INITIAL APPOINTMENT OF JUDGE.** The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge as provided by Section 5(c) of this Act. The appointee must have the qualifications required of the regular judge.

**SECTION 14. CONFORMING AMENDMENT.** Section 2(a), Chapter 508, Acts of the 61st Legislature, Regular Session, 1969 (Article 5139AAA, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Juvenile Board of Henderson County is created. The board consists of the County Judge of Henderson County, the judge of the 3rd Judicial District, the judge of the 173rd Judicial District, *the judge of the County Court at Law of Henderson County*, and the County Attorney of Henderson County. The judge of the 173rd Judicial District shall be chairman of the board and its chief administrative officer.

**SECTION 15. REPEALER.** Chapter 654, Acts of the 64th Legislature, Regular Session, 1975 (Article 1970-366, Vernon's Texas Civil Statutes), is repealed.

**SECTION 16. EFFECTIVE DATE.** This Act takes effect January 1, 1986.

**SECTION 17. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 18, 1985, by a non-record vote; passed by the Senate on May 9, 1985, by the following vote: Yeas 31, Nays 0.

Approved: May 24, 1985

Effective: January 1, 1985