

CHAPTER 944

H.B. No. 2387

An Act relating to the creation of the County Court at Law of Bastrop County and to the jurisdiction of the County Court of Bastrop County.

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

SECTION 1. CREATION. The County Court at Law of Bastrop County is created on the date determined by Section 11 of this Act.

SECTION 2. JURISDICTION. (a) The County Court at Law of Bastrop County has the jurisdiction over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, over which by the constitution and general laws of this state, county courts have jurisdiction. It does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways and the general administration of county business that is now within the jurisdiction of the Commissioners Court of Bastrop County. The judge of the county court retains all ex officio duties of the county judge.

(b) The County Court at Law of Bastrop County has jurisdiction concurrent with the district court in:

(1) eminent domain cases; and

(2) civil cases in which the matter in controversy exceeds \$500 and does not exceed \$50,000, exclusive of interest.

(c) The County Court at Law of Bastrop County also has concurrent jurisdiction with the district court in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of

minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child welfare, custody, support and reciprocal support, dependency, neglect, and delinquency; and independent actions involving controversies between parent and child and between husband and wife. This subsection does not diminish the jurisdiction of the district courts in Bastrop County and the district courts shall retain the jurisdiction conferred by law on district courts.

(d) The County Court at Law of Bastrop 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. It may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge may punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge of the county court at law has none of the county judge's authority over the administrative business of Bastrop County now performed by the county judge.

SECTION 3. COUNTY COURT JURISDICTION. (a) If the county judge is licensed to practice law in this state, the County Court of Bastrop County has jurisdiction concurrent with the County Court at Law of Bastrop County over all causes and proceedings, civil and criminal, juvenile and probate, original and appellate, over which by the constitution and general laws of this state, county courts have jurisdiction.

(b) If the county judge is not licensed to practice law in this state, the County Court of Bastrop County has concurrent jurisdiction with the county court at law only in probate proceedings, administrations of estates, guardianship proceedings, mental illness proceedings, and juvenile jurisdiction as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338-1.1, Vernon's Texas Civil Statutes).

SECTION 4. TERMS. The County Court at Law of Bastrop County shall hold two continuous terms that 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 of Bastrop County must be a qualified voter in Bastrop County, have been a resident of Bastrop County for at least six months, and have been a licensed attorney in this state for at least two years who has been actively engaged in the practice of law for at least one year.

(b) Beginning at the general election at which county court at law judges are regularly elected after creation of the court and every fourth year thereafter, the qualified voters of Bastrop 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.

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

(d) The judge of the County Court at Law of Bastrop County is entitled to receive a salary set by the Commissioners Court of Bastrop County and paid out of the county treasury in an amount not to exceed the amount that is equal to 90 percent of the salary paid by the state to a district judge having jurisdiction in Bastrop County. The salary shall be paid in equal monthly installments. The judge of the county court at law is entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as the county judge. The judge of the county court at law shall assess the same fees as a county judge may assess. The clerk of the court shall collect the fees and pay them into the county treasury. A fee may not be paid to the judge.

(e) The judge of the County Court at Law of Bastrop County shall execute a bond and take the oath of office prescribed by law for county judges. The judge may be removed from office in the same manner and for the same causes as a county judge.

(f) A special judge of the County Court at Law of Bastrop County may be appointed or elected in the manner provided by law for the appointment or election of a special county judge. The special judge must have the same qualifications as the regular judge. If the judge of the county court at law is disqualified to try a case pending in the court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

SECTION 6. PERSONNEL. (a) The criminal district attorney, the county clerk, and the sheriff of Bastrop County serve as criminal district attorney, clerk, and sheriff, respectively, for the County Court at Law of Bastrop County, except that the district clerk of Bastrop County serves as clerk of the county court at law in cases enumerated in Section 2(c) of this Act and shall establish a separate docket for the county court at law. These officials, either personally or by

the appointment of a deputy or assistant, shall perform the duties and responsibilities of their office and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The Commissioners Court of Bastrop County may employ as many deputy sheriffs and bailiffs as are necessary to serve the county court at law.

(b) The judge of the County Court at Law of Bastrop County shall appoint an official court reporter who must have the qualifications and shall perform the duties prescribed by law for official court reporters. The official court reporter is entitled to the compensation set by the Commissioners Court of Bastrop County.

SECTION 7. TRANSFER OF CASES; EXCHANGE OF BENCHES. (a) The judge of the district court and the judge of the County Court at Law of Bastrop County may transfer cases to and from the dockets of their respective courts, in matters within their jurisdiction, in order that the business may be equally distributed between them. All cases of concurrent jurisdiction enumerated in Section 2(c) of this Act may be instituted in or transferred between the district courts of Bastrop County and the county court at law. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) In cases transferred to any of the courts in Bastrop County by order of the judge of another court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, are valid and binding as though originally issued out of the court to which the transfer is made.

(c) When the jurisdiction of the County Court of Bastrop County is removed as provided by this Act, all cases are transferred to the county court at law. All processes, writs, bonds, recognizances, or other obligations issued or made in the transferred cases shall be returned to and filed in the county court at law. All bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances in the court to which the cases are transferred. All process issued, or returned before transfer of the cases, and all bonds and recognizances taken before transfer, are valid and binding as though originally issued out of the court to which the cases are transferred. Jurisdiction over judgments rendered before the jurisdiction of the court changes as provided by this Act is not transferred, and the court retains jurisdiction for the enforcement of those judgments. The county clerk shall promptly file in the county court at law all original papers, judge's dockets, and certified copies of any interlocutory judgments or orders entered in the cases transferred. The clerk shall also transfer all remaining cost deposits, jury fees, and any other matters necessary to the transfer of the cases.

(d) The district judge and the judge of the County Court at Law of Bastrop County may freely exchange benches and courtrooms with each other in matters within their jurisdiction so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the district court or county court at law, but only in matters within their jurisdiction, and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, a judge may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The method for the exchange of benches provided by this subsection is in addition to the provisions for the selection and appointment of a special judge of the county court at law.

SECTION 8. PRACTICE AND PROCEDURE. (a) Practice in the County Court at Law of Bastrop County must conform to that prescribed by general law for county courts, except that practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in the county court at law involving those matters of concurrent jurisdiction enumerated in Section 2(c) of this Act shall be governed by this Act and the laws and rules pertaining to district courts as well as county courts. If a case enumerated in Section 2(c) of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The laws governing the drawing, selection, service, and pay of jurors for county courts apply to the County Court at Law of Bastrop County.

(c) Jurors regularly impaneled for a week by the district court or courts may, on request of the judge of the County Court at Law of Bastrop County, be made available and shall serve for the week in the county court at law.

SECTION 9. COURTROOM. The Commissioners Court of Bastrop County shall furnish and equip a suitable courtroom and office space for the county court at law created by this Act.

SECTION 10. SEAL. The seal of the County Court at Law of Bastrop County created by this Act is the same as that provided by law for county courts, except the seal must contain the words "County Court at Law of Bastrop County."

SECTION 11. DATE OF CREATION. The County Court at Law of Bastrop County is created on January 1, 1986, or on an earlier date determined by the Commissioners Court of Bastrop County by an order entered on its minutes.

SECTION 12. INITIAL APPOINTMENT OF JUDGE. The Commissioners Court of Bastrop County 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.

SECTION 13. INITIAL TRANSFER OF CASES. (a) As soon as practicable after creation of the County Court at Law of Bastrop County, the county clerk shall establish a docket for the county court at law from among pending matters filed originally in the county court and shall transfer those matters to the docket of the county court at law created by this Act. As soon as practicable after creation of the County Court at Law of Bastrop County, the district clerk shall establish a separate docket for the county court at law from among pending matters filed originally in the district courts of Bastrop County and may transfer a sufficient number of those matters to the docket of the county court at law created by this Act to equalize the dockets. Equalization of case load shall be the primary objective in establishing the initial case docket for the county court at law.

(b) In cases transferred under this section, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the court to which the cases are transferred as fixed by law. All processes issued or returned before transfer of the cases, as well as all bonds and recognizances taken before transfer, are valid and binding as though originally issued out of the court to which the transfer is made.

SECTION 14. 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 May 9, 1985, by a non-record vote; passed by the Senate on May 21, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 15, 1985

Effective: August 26, 1985