

CHAPTER 955

H.B. No. 2461

An Act relating to the creation of the County Court at Law No. 3 and Probate Court of Brazoria County and the redesignation of the existing county courts at law in Brazoria County.

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

SECTION 1. CREATION; JURISDICTION; WRIT POWER; COUNTY JUDGE; PREFERENCE. (a) The County Court at Law No. 3 and Probate Court of Brazoria County is created January 1, 1987.

(b) The County Court at Law No. 3 and Probate Court of Brazoria County has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Brazoria County, the County Court at Law No. 1 and Probate Court of Brazoria County and County Court at Law No. 2 and Probate Court of Brazoria County. The County Court at Law No. 3 and Probate Court of Brazoria County has jurisdiction concurrent with the district court in eminent domain cases, in civil cases when the matter in controversy exceeds \$500 and does not exceed \$50,000, exclusive of interest, and in proceedings under Title 3 of the Family Code. The County Court at Law No. 3 and Probate Court of Brazoria County has concurrent jurisdiction with the district courts in Brazoria County in suits and cases involving family law matters, including adoption; birth records; removal of disability of minority or coverture; change of names 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; and 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. The County Court at Law No. 3 and Probate Court of Brazoria County has concurrent jurisdiction with the district court in appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in

controversy. The provisions in this subsection do not diminish the jurisdiction of the district courts in Brazoria County, and the district courts shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

(c) The County Court at Law No. 3 and Probate Court of Brazoria County, or the judge of said court, 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 may issue writs of habeas corpus in cases where 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 also have the power to punish for contempt as prescribed by law for county courts. The County Court at Law No. 3 and Probate Court of Brazoria County may enforce an order of the family district court for the 300th Judicial District relating to a family law matter.

(d) The county judge of Brazoria County is the judge of the County Court of Brazoria County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Brazoria County unless by this Act committed to the judges of the county courts at law.

(e) The County Court at Law No. 3 and Probate Court of Brazoria County shall be primarily responsible for and give preference to cases in which its jurisdiction is concurrent with the county court, eminent domain proceedings and cases, proceedings under Title 3 of the Family Code, and civil cases where the amount in controversy does not exceed \$20,000 exclusive of interest.

SECTION 2. TERMS. The Commissioners Court of Brazoria County by order duly entered of record shall prescribe not less than four terms each year for the County Court at Law No. 3 and Probate Court of Brazoria County.

SECTION 3. JUDGE. (a) The judge of the County Court at Law No. 3 and Probate Court of Brazoria County shall have the same qualifications as those prescribed by the constitution and laws of this state for district judges.

(b) At the general election in 1986 and every four years thereafter the judge of the County Court at Law No. 3 and Probate Court of Brazoria County shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy occurring in the office of the judge of the County Court at Law No. 3 and Probate Court of Brazoria County shall be filled by the Commissioners Court of Brazoria County, and the appointee shall hold office until the next general election and until his successor is duly elected and qualified.

(c) The judge of the County Court at Law No. 3 and Probate Court of Brazoria 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 district judge.

(d) The judge of the County Court at Law No. 3 and Probate Court of Brazoria County shall receive compensation prescribed by the Commissioners Court of Brazoria County in an amount not less than an amount that is \$1,000 less than the combined annual salary paid to the district judges of Brazoria County from all sources. The salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The judge of the County Court at Law No. 3 and Probate Court of Brazoria County shall assess the fees prescribed by law for county judges and district judges according to the nature of the matter brought before him or her, which shall be collected by the clerk of the court and paid into the county treasury and which may not be paid to the judge.

(e) A special judge of the County Court at Law No. 3 and Probate Court of Brazoria County may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications and is entitled to the same rate of compensation as the regular judge.

SECTION 4. PERSONNEL. (a) The criminal district attorney, county clerk, and sheriff of Brazoria County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the County Court at Law No. 3 and Probate Court of Brazoria County, except that the district clerk of Brazoria County shall serve as clerk of the county court at law in cases of which the district courts and county court at law have concurrent jurisdiction and that have been instituted in the district courts. The Commissioners Court of Brazoria County may employ as many additional assistant criminal district attorneys, deputy sheriffs, and deputy clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Brazoria County.

(b) The judge of the County Court at Law No. 3 and Probate Court of Brazoria County may appoint an official court reporter who must meet the qualifications prescribed by law for that office and who is entitled to the same compensation as the reporters of the district courts of Brazoria County, to be paid by the county treasurer out of the general fund of the county.

SECTION 5. PRACTICE. (a) Practice in the County Court at Law No. 3 and Probate Court of Brazoria County shall conform to that prescribed by law for the County Court of Brazoria County, 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 with the district courts shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. When a jury trial is requested in a case of concurrent jurisdiction between the district courts and county court at law, and the case was instituted in district court, the jury shall be composed of 12 members. In all other cases where jury trial is requested in the county court at law the jury shall be composed of six jurors.

(b) The judge of the County Court of Brazoria County and each judge of a county court at law and probate court of Brazoria County may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed among them. All cases of concurrent jurisdiction between the district courts and county court at law except those enumerated in Section 1(e) of this Act shall be instituted in the district courts and may be transferred between the district courts and the county court at law. Cases of concurrent jurisdiction between the district courts and the county court at law enumerated in Section 1(e) of this Act may be instituted in either the district courts or the county court at law. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred to a county court at law unless it is within the jurisdiction of that court.

(c) Jurors regularly impaneled for the week by the district courts of Brazoria County may, at the request of the judge of the County Court at Law No. 3 and Probate Court of Brazoria County, be made available by the district judges in the numbers requested and shall serve for the week in the county court at law.

SECTION 6. PRIVATE PRACTICE PROHIBITED. The judge of the County Court at Law No. 3 and Probate Court of Brazoria County shall not engage in the private practice of law while serving as judge of the court created by this Act.

SECTION 7. JUVENILE BOARD. The judge of the County Court at Law No. 3 and Probate Court of Brazoria County shall be a member of the juvenile board of Brazoria County.

SECTION 8. REDESIGNATION OF COURTS. The County Court at Law No. 1 of Brazoria County is redesignated the County Court at Law No. 1 and Probate Court of Brazoria County. The County Court at Law No. 2 of Brazoria County is redesignated the County Court at Law No. 2 and Probate Court of Brazoria County.

SECTION 9. All probate matters in Brazoria County shall be filed by the county clerk in County Court at Law No. 3 and Probate Court of Brazoria County effective January 1, 1987.

SECTION 10. 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 2, 1985, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 2461 on May 22, 1985, and requested the appointment of a conference committee to consider the differences between the two houses; House adopted the conference committee report on H.B. No. 2461 on May 26, 1985, by a non-record vote; passed by the Senate, with amendments, on May 21, 1985, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; Senate adopted the conference committee report on H.B. No. 2461 on May 27, 1985, by a viva-voce vote.

Approved: June 15, 1985

Effective: August 26, 1985