

CHAPTER 776

H.B. No. 2474

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

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

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

**SECTION 2. JURISDICTION.** (a) The court created by this Act has concurrent jurisdiction with the county court in all cases and proceedings, civil, criminal, original, and appellate, prescribed by law for county courts.

(b) The court created by this Act has concurrent jurisdiction with the district court in:

(1) eminent domain cases;

(2) civil cases in which the amount in controversy exceeds \$500 and does not exceed \$50,000, exclusive of interest, and exclusive of any requested attorney's fees; and

(3) cases and proceedings involving family law matters, including adoptions, birth records, removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and other matters 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.

(c) The court created by this Act, the county court, and the district court have concurrent jurisdiction over juvenile matters and proceedings as provided by Chapter 178, Acts of the 66th Legislature, Regular Session, 1979 (Article 2338-1.1, Vernon's Texas Civil Statutes). Any of those courts may be designated a juvenile court.

(d) The court created by this Act 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 or county court.

(e) The court created by this Act has the general jurisdiction of a probate court within Austin County, and its jurisdiction is concurrent with the county court in probate, administration of estates, guardianship, and proceedings related to mental illness.

(f) This section does not diminish the jurisdiction of the district court.

**SECTION 3. POWERS AND DUTIES.** (a) The court created by this Act or its judge may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari,

supersedeas, and all other writs necessary for the enforcement of the jurisdiction of the court. The court or the judge 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.

(b) The court and judge may punish for contempt as prescribed by law for county courts.

(c) The judge of the court created by this Act has all other powers, duties, immunities, and privileges provided by law for county court judges, except that the judge does not have any authority over the administrative business of the county that is performed by the county judge. The judge of the court created by this Act is a magistrate and conservator of the peace.

**SECTION 4. COUNTY JUDGE.** The county judge of Austin County is the judge of the County Court of Austin County. All ex officio duties of the county judge shall be exercised by the judge of the county court except as otherwise provided by this Act.

**SECTION 5. TERMS.** The terms of the court created by this Act begin on the first Mondays in March, June, September, and December of each year. Each term of court continues until the next term begins.

**SECTION 6. JUDGE.** (a) The judge of the court created by this Act must be a licensed attorney in this state who has been actively engaged in the practice of law for at least four years prior to his appointment or election, must be well informed in the laws of this state, and must have resided and been actively engaged in the practice of law in the county for at least the two years immediately preceding his appointment or election.

(b) At the first general election at which county court at law judges are regularly elected after creation of the court, the qualified voters of the county shall elect a judge of the court created by this Act for a four-year term. Every four years thereafter, the judge shall be elected for a regular four-year term as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) The judge of the court created by this Act may not engage in the private practice of law.

(d) The commissioners court shall appoint a person with the qualifications prescribed in Subsection (a) of this section to fill a vacancy in the office of the judge of the court created by this Act. The appointee serves until the next general election and until his successor is elected and has qualified.

(e) The judge of the court created by this Act shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the court created by this Act is entitled to receive an annual salary set by the commissioners court at an amount that is at least equal to 75 percent of the annual state salary of the district judge. The salary shall be paid in equal monthly installments by the county treasurer by order of the commissioners court. The judge is entitled to traveling expenses and necessary office expenses including administrative and clerical personnel, in the same manner as is allowed the county judge. The judge shall assess the same fees that a county judge may assess. The clerk of the court collects the fees and pays them into the county treasury. A fee may not be paid to the judge.

(g) The judge of the County Court at Law of Austin County shall not engage in the private practice of law while serving as a judge.

**SECTION 7. SPECIAL JUDGE.** (a) A special judge of the court created by this Act may be appointed or elected as provided by law for county courts. A special judge is entitled to the same rate of compensation as the regular judge.

(b) If a judge of the court created by this Act is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the same rate of compensation as the regular judge.

**SECTION 8. COURT OFFICIALS AND PERSONNEL.** The county attorney, county clerk, and sheriff serve as county attorney, clerk, and sheriff of the court created by this Act except that the district clerk serves as clerk of the county court at law in matters enumerated in Section 2(b)(3) of this Act. The district clerk shall establish a separate docket for the court created by this Act. The commissioners court may employ the assistant district attorneys, deputy sheriffs, and bailiffs 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 Austin County.

**SECTION 9. COURT REPORTER.** The judge of the court created by this Act may appoint an official court reporter who serves at the pleasure of the judge. The court reporter is entitled to receive compensation set by the commissioners court. The official court reporter must have the qualifications prescribed by law for district court reporters.

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

**SECTION 11. PRACTICE.** Practice in the court created by this Act must conform to that prescribed by law for the county court, 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 court enumerated in Section 2(b)(3) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts. If a case within the district court's jurisdiction enumerated in Section 2(b)(3) of this Act is tried before a jury, the jury shall be composed of 12 members; in all other cases the jury shall be composed of six members.

**SECTION 12. TRANSFER OF CASES; EXCHANGE OF BENCHES.** (a) The judges of the county court and the court created by this Act may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed. Cases of concurrent jurisdiction between the district court and the court created by this Act, except those enumerated in Section 2(b)(3) of this Act, may be instituted in either the district court or the court created by this Act. A case within the concurrent jurisdiction of the district court and the court created by this Act enumerated in Section 2(b)(3) of this Act must be instituted in the district court and may be transferred between the district court and county court at law. A case may not be transferred from one court to the other without the consent of the judge of the court to which it is transferred. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

(b) The county judge and the judge of the court created by this Act may freely exchange benches and courtrooms so that if one is ill, disqualified, or absent, the other may hold court for him without the necessity of transferring the case or proceeding. Either judge may hear all or any part of a case or proceeding pending in the county court or the court created by this Act, and may rule or enter orders on and continue, determine, or render judgment on all or any part of the case or proceeding without the necessity of transferring it to his own docket. The judge of the court created by this Act may not sit or act in a case or proceeding over which exclusive jurisdiction is vested in the county court.

(c) In a case transferred from one court to another as provided by this section, all processes, writs, bonds, recognizances, or other obligations issued or made in the case are returnable to and shall be filed in the court to which the transfer is made. All bonds executed and recognizances entered into in the case 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 case is transferred as are fixed by law. All processes issued or returned before transfer of a case and all bonds and recognizances taken in a case are valid and binding as though originally issued out of the court to which the transfer is made.

**SECTION 13. JURORS.** (a) The jurisdiction and authority vested by law in the county clerk and the county judge for the drawing, selection, and service of jurors shall also be exercised by the court created by this Act and its judge. Jurors summoned for either court may by order of the judge of the court to which they are summoned be transferred to the other court for service. If the judge of the court created by this Act and the county judge agree, jurors may be summoned for service in both courts and used interchangeably.

(b) On request of either the county judge or the judge of the court created by this Act, jurors regularly impaneled for a week by the district court may be made available and shall serve for the week in either the county court or the court created by this Act.

**SECTION 14. INITIAL APPOINTMENT OF JUDGE.** The commissioners court shall appoint a person to fill the vacancy existing on the creation of the office of judge of the County Court at Law of Austin County as provided by Section 6(d) of this Act.

**SECTION 15. EFFECTIVE DATE.** This Act takes effect January 1, 1986.

**SECTION 16. EXPIRATION OF ACT.** The County Court at Law of Austin County is abolished and this Act expires December 31, 1991.

**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 May 17, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 2474 on May 27, 1985, by a non-record vote; passed by the Senate, with amendments, on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 14, 1985

Effective: January 1, 1986