

CHAPTER 96

H.B. No. 710

An Act relating to the creation of the County Court at Law No. 2 of Midland County, and to the jurisdiction of, practice in, and other provisions relating to the County Court at Law of Midland County.

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

SECTION 1. CREATION. The County Court at Law No. 2 of Midland County is created on the date determined by Section 9 of this Act.

SECTION 2. JURISDICTION. (a) The County Court at Law No. 2 of Midland County has jurisdiction in all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, over which by the constitution and general laws of the state the county courts have jurisdiction, and its jurisdiction is concurrent with that of the County Court of Midland County. This Act does not affect the jurisdiction of the commissioners court or of the county judge as the presiding officer of the commissioners court. The county judge of Midland County is the judge of the County Court of Midland County. The county judge shall perform all ex officio duties of his office except as otherwise provided by this Act or other law.

(b) The County Court at Law No. 2 of Midland County 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;

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

(3) eminent domain cases and proceedings, regardless of the amount in controversy; and

(4) 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; independent actions involving child support and custody of minors and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses.

(c) The district courts, county court, and county courts at law in Midland County have jurisdiction over juvenile matters as provided by general law and each court may be designated a juvenile court.

(d) This section does not diminish the jurisdiction of the district court or the county court in Midland County, and those courts retain and continue to exercise the jurisdiction that is conferred by law on those courts. The jurisdiction conferred by this section is concurrent with the jurisdiction of those courts.

SECTION 3. WRIT POWER. The County Court at Law No. 2 of Midland 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 the judge may punish for contempt as prescribed by general law.

SECTION 4. TERMS. The County Court at Law No. 2 of Midland County has the same terms of court as the terms of the County Court of Midland County.

SECTION 5. JUDGE. (a) The judge of the County Court at Law No. 2 of Midland County must have resided and practiced law in Midland County for at least two years prior to the judge's appointment or election, and 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 the judge's 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 commissioners court shall appoint a person to fill a vacancy occurring in the office of the judge of the County Court at Law No. 2 of Midland County. 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 No. 2 of Midland County shall take the oath of office prescribed by the constitution of this state and shall execute a bond as required by the law relating to county judges.

(e) The judge of the County Court at Law No. 2 of Midland County may be removed from office in the same manner and for the same causes as a county judge.

(f) The judge of the County Court at Law No. 2 of Midland County is entitled to receive an annual salary set by the commissioners court in an amount that is at least equal to the sum that is 90 percent of the annual salary paid by the state to a district judge having jurisdiction in Midland County. The salary shall be paid out of the county treasury of Midland County in equal monthly installments. The judge of the County Court at Law No. 2 of Midland County is entitled to traveling expenses and necessary office expenses, including administrative and clerical assistance, in the same manner as the county judge. The judge of the County Court at Law No. 2 of Midland County shall assess the same fees that a county judge may assess. The fees assessed in cases in which the court has concurrent civil jurisdiction with the district court shall be the same as in the district court. The clerk of the court shall collect the fees and pay them into the county treasury on collection. The fees may not be paid to the judge.

(g) A special judge of the County Court at Law No. 2 of Midland County may be appointed or elected in the manner provided by law for the appointment or election 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 6. COURT OFFICIALS AND PERSONNEL. (a) The county attorney, county clerk, and sheriff of Midland County shall serve as county attorney, clerk, and sheriff, respectively, for the County Court at Law No. 2 of Midland County except that the district clerk of Midland County serves as the clerk of the County Court at Law No. 2 of Midland County in cases in which the court has concurrent jurisdiction with the district court. In matters within the concurrent jurisdiction, the judges of the county courts at law and the district courts may adopt 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 the business of those courts.

(b) The judge of the County Court at Law No. 2 of Midland County shall appoint an official court reporter. The reporter must have the same qualifications as provided by law for official court reporters. The reporter's duties are the same as provided by law for official court reporters. The official court reporter is entitled to the compensation fixed by the commissioners court.

SECTION 7. PRACTICE AND PROCEDURE. (a) Practice in the County Court at Law No. 2 of Midland County shall conform to that prescribed by law and rule for county courts.

(b) The judges of the county court, the county courts at law, and the district court may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. On motion of a party, on agreement of the parties, or on their own motion, the judges of the county courts at law in Midland County and the district courts in Midland County may transfer civil cases and proceedings. A civil 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 shall transfer the case or proceeding from his court to another as provided by this subsection. 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, and all witnesses summoned to appear in 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.

(c) The county judge and the judges of the county courts at law may exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, another may hold court for him without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the county court or a county court at law 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 provisions allowing the exchange of benches by and between the judges are cumulative of the provisions for the election and appointment of a special judge.

(d) The district judges and the judges of the county courts at law may exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, another may hold court for him without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the district court or a county court at law 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.

(e) The laws that govern the drawing, selection, and service of jurors for county courts apply to the County Court at Law No. 2 of Midland County, including the provisions for interchangeable juries applicable in counties with at least three district courts and the provisions applicable in counties with at least two county courts at law. Jurors regularly impaneled for the week by the district court of Midland County may, at the request of either the judge of the county court or the judge of a county court at law, be made available by the district judge in the numbers requested and shall serve in the county court or county courts at law.

SECTION 8. FACILITIES. (a) The County Court at Law No. 2 of Midland County shall sit in the city of Midland. The commissioners court shall furnish and equip a suitable courtroom and office space for the court created by this Act.

(b) The seal of the County Court at Law No. 2 of Midland County is the same as that provided by law for county courts, except the seal must contain the words "County Court at Law No. 2 of Midland County."

SECTION 9. DATE OF CREATION. The County Court at Law No. 2 of Midland County is created on January 1, 1986, or on an earlier date determined by the commissioners court by an order entered on its minutes.

SECTION 10. 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 11. JUVENILE BOARD. The judge of the County Court at Law No. 2 of Midland County is a member of the Midland County Juvenile Board.

SECTION 12. Section 1, Chapter 87, Acts of the 55th Legislature, Regular Session, 1957 (Article 5139Q, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. There is a county juvenile board in and for Midland County, which shall be composed of the county judge of Midland County, the judge of each judicial district which includes Midland County, the judge of the court of domestic relations in Midland County, and the *judges* [~~judge~~] of the county *courts* [~~court~~] at law of Midland County. The official title of the board shall be the Midland County Juvenile Board. The judge of the court which is designated as the juvenile court of the county shall be the chairman of the board and its chief administrative officer.

SECTION 13. Section 2(b), Chapter 640, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-370, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) *The County Court at Law of Midland County 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;*

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

(3) *eminent domain cases and proceedings, regardless of the amount in controversy; and*

(4) *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; independent actions involving child support and custody of minors and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses. [~~The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided by general law.~~]*

SECTION 14. Section 5(a), Chapter 640, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-370, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The judge of the county court at law must *have* [~~be a duly licensed and practicing member of the State Bar of Texas who has~~] resided in and *practiced* [~~been actively engaged in the practice of~~] law in Midland County for *at least* [~~a period of not less than~~] two years prior to his appointment or election *and 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 the judge's appointment or election.*

SECTION 15. Section 5(d), Chapter 640, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-370, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The judge of the county court at law *is entitled to* [~~shall~~] receive a salary [~~to be~~] set by the commissioners court *in an amount that is at least equal to the sum that is 90 percent of the annual salary paid by the state to a district judge having jurisdiction in Midland County. The salary shall be* [~~and to be~~] paid in equal monthly installments out of the county treasury by the commissioners court. He shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge. The judge of the county court at law shall assess the same fees *that a county judge may assess. The fees assessed in cases in which the court has concurrent civil jurisdiction with the district court shall be the same as in the district court. The* [~~as are now prescribed or may be established by law relating to the county judge's fees, all of which shall be collected by the~~] clerk of the court *shall collect the fees and pay them* [~~shall be paid~~] into the county treasury on collection. *The fees may not be paid to the judge.*

SECTION 16. Section 6(a), Chapter 640, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-370, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The county attorney, county clerk, and sheriff of Midland County shall serve as county attorney, clerk, and sheriff, respectively, of the county court at law *except that the district clerk of Midland County shall serve as clerk of the county court at law in cases where that court has concurrent jurisdiction with the district court. In matters within their concurrent jurisdiction, the judges of the county courts at law and the district courts may 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.* ~~[These officials, either personally or by the appointment of a deputy or assistant, shall perform the duties and responsibilities of their offices and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices. The commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court.]~~

SECTION 17. Section 7, Chapter 640, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-370, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. (a) Practice in the county court at law shall conform to that prescribed by law for the county court.

(b) *The judges of the county court, the county courts at law, and the district courts may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. On a motion of a party, on agreement of the parties, or on their own motion, the judges of the county courts at law in Midland County and the district courts in Midland County may 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 shall transfer the case or proceeding from his court to another as provided by this subsection. 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, and all witnesses summoned to appear in 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.* ~~[In order that the business may be equally distributed between the courts, the judges of the county court at law and the county court may transfer cases to and from the dockets of their respective courts and the judges of the county court at law and the district courts may transfer cases to and from the dockets of their respective courts. However, no case may be transferred from one court to another court without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.]~~

(c) The county judge and the judges ~~[judge]~~ of the county courts ~~[court]~~ at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, ~~another [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 county court or county court at law 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, the judge of either court 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.

(d) *The district judges and the judges of the county courts at law may exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, another may hold court for him without the necessity of transferring the case involved. Any of those judges may hear all or any part of a case pending in the district court or a county court at law 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.*

(e) ~~[(d)]~~ In cases transferred to any of the courts 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 shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law. All processes issued or returned before transfer of the cases as

well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

SECTION 18. Section 8, Chapter 640, Acts of the 65th Legislature, Regular Session, 1977 (Article 1970-370, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. The laws that govern the drawing, selection, and service[; and pay] of jurors for county courts apply to the county court at law, including the provisions for interchangeable juries applicable in counties with at least three district courts and the provisions applicable in counties with at least two county courts at law. Jurors regularly [A general panel of jurors, or jurors] impaneled for a week by a district court[;] may be made available and shall serve for the week in the county court at law. A general panel of jurors or jurors impaneled for a week by a district court [or summoned for the county court or county court at law] may, at the [on] request of either the judge of the county court or county court at law [a justice of the peace], be made available in the number [such numbers as may be] requested [for service in the justice court] and shall serve in the county court or the county court at law [justice court as if summoned for the justice court to which they are transferred].

SECTION 19. 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 14, 1985, by the following vote: Yeas 135, Nays 0, 1 present, not voting; passed by the Senate on April 25, 1985, by the following vote: Yeas 30, Nays 0.

Approved: May 9, 1985

Effective: Immediately