

CHAPTER 878

H.B. No. 711

An Act relating to the creation of the Probate Court No. 4 of Harris County.

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

SECTION 1. CREATION. The Probate Court No. 4 of Harris County is created.

SECTION 2. JURISDICTION. The Probate Court No. 4 of Harris County has the general jurisdiction of a probate court within the limits of Harris County in probate, administrations, guardianships, and mental illness proceedings and has concurrent jurisdiction with the Probate Courts Nos. 1, 2, and 3 of Harris County. The court created by this Act shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, lunacy proceedings, and the apprenticing of minors as provided by law. The Probate Court No. 4 of Harris County has secondary responsibility for mental illness proceedings.

SECTION 3. FILING OF CASES. (a) All matters and proceedings filed with the county clerk shall be filed by the clerk so that the cases ending in 3 and 4 shall be filed in the Probate Court No. 4 of Harris County, cases ending in 0 and 5 shall be filed in the Probate Court No. 3 of Harris County, all other cases or matters ending in an odd number shall be filed in the Probate Court No. 1 of Harris County, and all other cases or matters ending in an even number shall be filed in the Probate Court No. 2 of Harris County. Cases shall be filed in the courts in the order in which they were deposited with the clerk for filing.

(b) Probate Courts Nos. 3 and 4 of Harris County each have responsibility for one-half of all the mental illness proceedings. Mental illness cases or matters ending in an odd number shall be filed in the Probate Court No. 3 of Harris County and mental illness cases or matters ending in an even number or zero shall be filed in the Probate Court No. 4 of Harris County.

(c) The clerk shall keep a separate docket for each court.

SECTION 4. TRANSFER OF CASES. Each of the judges of the County Court and the statutory probate courts of Harris County may, at any time, with the consent of the judge of the court to which transfer is to be made, by an order entered on the minutes of the court, transfer to the county court or other statutory probate court any pending matter or proceeding. All processes issued from the transferring court are returnable to and may be filed in the court to which a case is transferred and are valid and binding as though originally issued out of that court.

SECTION 5. COUNTY COURT JURISDICTION. The County Court of Harris County retains the powers and jurisdiction of the court existing on the effective date of this Act. The court exercises its power and jurisdiction as a probate court with respect to all matters and proceedings of that nature, except those matters and proceedings transferred to or filed in the Probate Courts Nos. 1, 2, 3, and 4 of Harris County. The county judge of Harris County shall be the judge of the County Court of Harris County and shall exercise all existing ex officio duties of the county judge.

SECTION 6. COUNTY COURT AT LAW JURISDICTION. This Act does not affect the jurisdiction of the County Civil Court at Law No. 1, 2, or 3 of Harris County or the County Criminal Court at Law No. 1, 2, 3, 4, 5, 6, 7, 8, or 9 of Harris County.

SECTION 7. PRACTICE AND PROCEDURE. The practice and procedure in the Probate Court No. 4 of Harris County shall be the same as that provided by general law for county courts. The rules of court relating to proceedings in county courts apply to the Probate Court No. 4 of Harris County.

SECTION 8. WRIT POWER; CONTEMPT. The Probate Court No. 4 of Harris County may issue writs of injunction, mandamus, execution, attachment, and all writs and process

necessary to the exercise and enforcement of the jurisdiction of the court. The court and the judge may punish for contempt as prescribed by law for county court judges.

SECTION 9. TERMS. The terms of the Probate Court No. 4 of Harris County begin on the first Mondays in January and July of each year. The terms of court shall be known as the January-June term and the July-December term. Each term of court continues until the next succeeding term begins.

SECTION 10. JUDGE. (a) At the first general election at which county court at law judges are regularly elected after the creation of this court, the qualified voters of Harris County shall elect a judge of the Probate Court No. 4 of Harris County for a four-year term. Every four years thereafter a 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.

(b) The judge of the Probate Court No. 4 of Harris County must be well informed in the laws of this state and must have been licensed to practice law in this state and have practiced law in this state for at least five consecutive years before his election or appointment.

(c) The judge of the Probate Court No. 4 of Harris County is entitled to receive an annual salary equal to the salary of the judges of the Probate Courts Nos. 1, 2, and 3 of Harris County, payable in the same manner. The judge shall assess the fees prescribed by law for county judges. The clerk of the court collects the fees and pays them into the county treasury. A fee may not be paid to the judge.

(d) In the case of absence, disqualification, or incapacity of the judge of a statutory probate court to try a case pending in the court, a special judge may be appointed or elected in the manner provided by law for the appointment or election of a special county judge.

SECTION 11. BOND; OATH. The judge of the Probate Court No. 4 of Harris County shall execute a bond in the amount of \$100,000 and take the oath of office prescribed by law for county judges.

SECTION 12. VACANCY. The Commissioners Court of Harris County shall appoint a person to fill a vacancy occurring in the office of judge of the Probate Court No. 4 of Harris County. The appointee serves until the next general election and until his successor is elected and has qualified.

SECTION 13. ABSENCE, DISQUALIFICATION, OR INCAPACITY OF JUDGE. In the case of the absence, disqualification, or incapacity of a judge of a statutory probate court of Harris County, the county judge or one of the judges of the other statutory probate courts may sit and act as judge of the court. The judge may hear and determine, either in his own courtroom or in the courtroom of the court, any pending matter or proceeding and enter any order in the matters or proceedings that the judge of the court may enter.

SECTION 14. PERSONNEL. The county clerk of Harris County serves as the clerk of the Probate Court No. 4 of Harris County. The county sheriff shall, in person or by deputy, attend the court when required by the judge.

SECTION 15. SEAL. The seal of the court shall be the same as that provided by law for county courts except that the seal must contain the words "Probate Court No. 4 of Harris County."

SECTION 16. INITIAL APPOINTMENT OF JUDGE. The Commissioners Court of Harris County shall appoint a person to fill a vacancy existing on the creation of the office of judge as provided by Section 12 of this Act. The appointee must have the qualifications required of the regular judge.

SECTION 17. INITIAL TERM OF COURT. The initial term of the Probate Court No. 4 of Harris County begins on the first Monday of the first calendar month beginning after the effective date of this Act. The term continues until the next regular term begins.

SECTION 18. INITIAL TRANSFER OF CASES. On the first day of the initial term of the Probate Court No. 4 of Harris County the county judge and the judges of the Probate Courts Nos. 1, 2, and 3 of Harris County, by orders entered on the minutes of their courts, shall transfer to the docket of the Probate Court No. 4 of Harris County the number of pending proceedings and matters in those courts as will equalize the number of cases pending on the dockets of each of the five courts.

SECTION 19. EFFECTIVE DATE. This Act takes effect September 1, 1985.

SECTION 20. 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 11, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 711 on May 21, 1985, by the following vote: Yeas 68, Nays 60, 17 present, not voting; passed by the Senate, with amendments, on May 9, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 15, 1985

Effective: September 1, 1985