

CHAPTER 324

H.B. No. 733

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

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

SECTION 1. CREATION. The County Court at Law of Kerr County is created on the date determined by Section 13 of this Act.

SECTION 2. JURISDICTION. (a) The County Court at Law of Kerr County has jurisdiction over all causes and proceedings, civil, criminal, and juvenile, original and appellate, as prescribed by the constitution and general laws of the state for county courts. The jurisdiction of the County Court at Law of Kerr County is concurrent with the jurisdiction of the County Court of Kerr County except as otherwise specified by this Act. The county court at law does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways within the jurisdiction of the commissioners court or the County Court of Kerr County.

(b) The County Court at Law of Kerr County has the general jurisdiction of a probate court within the limits of Kerr County, and its jurisdiction is concurrent with that of the County Court of Kerr County in probate matters and proceedings.

(c) The County Court at Law of Kerr County has concurrent jurisdiction with the district courts in Kerr County in eminent domain cases and in civil cases in which the matter in controversy exceeds \$500 and does not exceed \$50,000, exclusive of interest and attorney's fees.

(d) The County Court at Law of Kerr County has concurrent jurisdiction with the district courts in Kerr County in proceedings under Titles 1, 2, and 4, Family Code.

(e) The County Court of Kerr County retains exclusive original jurisdiction of all matters arising under the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes) and statutory procedures for the commitment and treatment of persons alleged to be alcoholics, drug-dependent persons, or mentally ill persons.

(f) The county judge of Kerr County is the judge of the County Court of Kerr County. The county judge shall perform all ex officio duties of his office except as otherwise provided by this Act.

SECTION 3. WRIT POWER; CONTEMPT. (a) The County Court at Law of Kerr County 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 in the county of inferior jurisdiction.

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

SECTION 4. POWERS, DUTIES, IMMUNITIES, AND PRIVILEGES OF JUDGE. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges. He is a magistrate and conservator of the peace.

SECTION 5. JURORS. The laws governing the drawing, selection, service, and pay of jurors for county courts apply to the County Court at Law of Kerr County. Jurors regularly impaneled for a week by the district courts may, on request of the judge of the county court at law, be made available and serve for the week in the County Court at Law of Kerr County.

SECTION 6. PRACTICE AND PROCEDURE. Practice in the County Court at Law of Kerr County shall be as prescribed by general law for county courts. 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 of Kerr County involving those matters of concurrent jurisdiction enumerated in Sections 2(c) and (d) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general and special, as well as county courts. If a case enumerated in Section 2(c) or (d) is tried before a jury, the jury shall be composed of 12 members.

SECTION 7. TERMS. The terms of the County Court at Law of Kerr County are the same as those for the County Court of Kerr County.

SECTION 8. JUDGE. (a) 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.

(b) The judge of the County Court at Law of Kerr County must have resided in and been actively engaged in the practice of law in Kerr County for at least six months prior to his election or appointment, and must be a licensed attorney in this state who has been actively engaged in the practice of law for at least two years prior to his election or appointment. The judge must reside in Kerr County during his term of office.

(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 of Kerr 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 of Kerr County 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.

(e) The judge of the County Court at Law of Kerr County is entitled to receive an annual salary set by the commissioners court at an amount that is at least equal to 80 percent of the annual compensation, including supplements, paid a district judge of Kerr County. The salary shall be paid in equal monthly installments out of the county treasury on orders from the commissioners court. The judge is entitled to reasonable traveling expenses and necessary office expenses, including administrative and clerical help. The judge shall assess the same fees that a county judge may assess. 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.

(f) In the case of disqualification of the judge to try a case pending in the court, the parties or their attorneys may agree on the selection of a special judge to try the case. A special judge of the County Court at Law of Kerr 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 is entitled to receive as compensation for each day he actively serves an amount equal to 1/250th of the annual salary of the judge of the County Court at Law of Kerr County. The amount shall be paid out of the general fund of the county by the commissioners court.

(g) This Act does not diminish the authority of the judge of the County Court of Kerr County to appoint a retired judge as authorized by Chapter 475, Acts of the 64th Legislature, Regular Session, 1975 (Article 1933a, Vernon's Texas Civil Statutes).

(h) The judge may not engage in the private practice of law.

SECTION 9. PERSONNEL. (a) The county attorney of Kerr County shall represent the state in the County Court at Law of Kerr County as provided by law for prosecutions in county court. Fees are as prescribed by law for prosecutors in the county court.

(b) The sheriff of Kerr County shall in person or by deputy attend the court when required by the judge.

(c) The county clerk of Kerr County serves as the clerk of the County Court at Law of Kerr County.

(d) The judge of the County Court at Law of Kerr County shall appoint an official shorthand reporter for the court. The reporter must have the qualifications required by law for official shorthand reporters. The reporter shall be a sworn officer of the court and shall hold office at the pleasure of the court. The reporter must take the oath required of official court reporters. The reporter is entitled to a salary set by the judge of the County Court at Law of Kerr County at an amount at least equal to 80 percent of the average compensation paid the official shorthand reporters of the district courts of Kerr County. The salary shall be paid out of the county treasury in equal monthly installments.

SECTION 10. TRANSFER OF CASES AND EXCHANGE OF BENCHES. (a) The judge of the county court and the judge of the county court at law 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 Sections 2(c) and (d) of this Act may be instituted in or transferred between the district courts of Kerr County and the County Court at Law of Kerr County. 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 all cases transferred to the County Court at Law of Kerr County and in cases transferred to any of the courts in Kerr 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 shall 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 are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances taken in the case are valid and binding as though originally issued out of the court to which the transfer is made.

(c) The county judge and the judge of the County Court at Law of Kerr 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 county court or county court at law, but only in matters within his 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. Each judgment and order shall be entered in the minutes of the court in which the case is pending. The provisions for the exchange of benches by and between the judges are in addition to the provisions in this Act for the selection and appointment of a special judge of the county court at law.

SECTION 11. FILING, DOCKETING, AND ASSIGNMENT OF CASES IN CONCURRENT DISTRICT COURT JURISDICTION. The judge of the County Court at Law of Kerr County and one or more of the district court judges in Kerr County may agree on a plan governing the filing, numbering, and docketing of cases within the concurrent jurisdiction of their courts and the assignment of those cases for trial. Such plan may provide for the centralized institution and filing of all such cases with one court, clerk, or coordinator designated by the plan, and for the systemized assignment of those cases to the various courts participating in the plan, and the provisions of the plan for centralized filing and assignment of cases shall control, notwithstanding, any other provision of this Act. A judge must enter an order in the minutes of his court to participate in or to withdraw from the plan.

SECTION 12. SEAL; COURTROOM. (a) The seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Kerr County."

(b) The commissioners court of Kerr County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

SECTION 13. CREATION OF COURT. The County Court at Law of Kerr County is created on October 1, 1985, or on an earlier date determined by the commissioners court by an order entered on its minutes.

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 as provided by Section 8(c) of this Act. The appointee must have the qualifications required of the regular judge.

SECTION 15. INITIAL TRANSFER OF CASES. The county clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the County Court of Kerr County and shall transfer those matters to the docket of the court created by this Act. The district clerk may transfer a sufficient number of pending matters filed originally in the district courts of Kerr County that are in the jurisdiction of the county court at law to the docket of the court created by this Act to equalize the dockets, and the county clerk shall establish a separate docket for those cases.

SECTION 16. 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 March 28, 1985, by a non-record vote; passed by the Senate on May 17, 1985, by the following vote: Yeas 30, Nays 0.

Approved: June 8, 1985

Effective: August 26, 1985