

## CHAPTER 441

S.B. No. 1329

An Act relating to the jurisdiction, powers, practice, and procedures of the County Court at Law of Nolan County and to the selection and compensation of the judge of that court; amending Chapter 100, Acts of the 56th Legislature, Regular Session, 1959 (Article 1970-347, Vernon's Texas Civil Statutes).

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

**SECTION 1.** Chapter 100, Acts of the 56th Legislature, Regular Session, 1959 (Article 1970-347, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. **CREATION.** ~~The [There is hereby created a Court to be held in Sweetwater, Nolan County, Texas, which shall be known as the] County Court at Law of Nolan County is created [; providing, however, that the provisions of this Act shall not become operative until the Commissioners Court of Nolan County enters an order adopting same].~~

"Section 2. **JURISDICTION.** (a) The County Court at Law of Nolan County has concurrent 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.

"(b) The County Court at Law of Nolan County has concurrent jurisdiction with the county court in:

"(1) all civil and criminal cases and proceedings, original and appellate, prescribed by law for county courts; and

"(2) probate matters and proceedings.

"(c) The County Court at Law of Nolan County has concurrent jurisdiction with the county and district courts in 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).

"(d) The County Court at Law of Nolan County has concurrent jurisdiction with the justice court in all criminal matters for which jurisdiction is conferred on justice courts by the general laws of this state. This section does not deny the right of appeal to the county court at law from the justice court where the right of appeal to the county court exists by law.

“(e) The County Court at Law of Nolan County 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. The judge of the county court retains all ex officio duties of the county judge.

“(f) This section does not diminish the jurisdiction of the district courts and justice courts but only gives concurrent jurisdiction to the County Court at Law of Nolan County over the matters specified in Subsections (a) through (d) of this section. The district courts and justice courts retain the jurisdiction conferred by law on those courts.

“(g) Article 1951, Revised Statutes, does not apply to the County Court at Law of Nolan County. Neither Article 1951 nor Section 21.002, Property Code affects or diminishes the jurisdiction of the county court at law.

“Section 3. POWERS AND DUTIES. (a) The County Court at Law of Nolan 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.

“(b) The County Court at Law of Nolan County or its judge may punish for contempt as prescribed by general law.

“(c) The judge of the County Court at Law of Nolan County 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 of the county.

“Section 4. TERMS OF COURT. The terms of the County Court at Law of Nolan County begin on the first Mondays in January and July of each year. Each term of court continues until the next succeeding term begins.

“Section 5. JUDGE. (a) The judge of the County Court at Law of Nolan County must be a citizen of the United States, have resided in the county for at least one year prior to election or appointment, be licensed to practice law in this state, and have actively practiced law for at least four years prior to election or appointment.

“(b) The commissioners court shall fix the annual salary of the judge of the County Court at Law of Nolan County at a sum that is at least equal to 75 percent, but not more than 100 percent, of the total annual salary received from the state by the district judge in the county. The annual salary shall be paid in equal monthly installments.

“(c) The commissioners court shall appoint a person to fill a vacancy in the office of the judge of the County Court at Law of Nolan County. The appointee holds office until the next succeeding general election and until his successor is elected and qualified.

“(d) At each general election at which county court judges are regularly elected, the qualified voters of the county shall elect the judge of the County Court at Law of Nolan County for a regular term of four years as provided by Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

“(e) The judge shall take the oath of office prescribed by the constitution of this state.

“(f) The judge may not receive from a law firm any money other than money earned before taking office.

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

“Section 6. COURT OFFICIALS, PERSONNEL, AND FACILITIES. (a) The judge may appoint a court coordinator or administrative assistant for the County Court at Law of Nolan County. A court coordinator or administrative assistant performs the duties prescribed by the judge and cooperates with the administrative judges and state agencies for the uniform and efficient operation of the courts and the administration of justice. The court coordinator or administrative assistant is entitled to be paid from county funds the compensation, fees, and allowances that are set by the commissioners court or as otherwise provided by law. The authority in this subsection to appoint a court coordinator or administrative assistant is in addition to any authority under the law relating to a court administrator's system for certain county courts with criminal jurisdiction.

“(b) The judge of the County Court at Law of Nolan County shall appoint an official court reporter, who serves at the pleasure of the court. The court reporter must have the qualifications prescribed by law for that office. The court reporter must take the oath of office prescribed by law for court reporters. The reporter is entitled to receive compensation set by the commissioners court to be paid out of the county treasury, either by salary or by contract as set by the commissioners court. The clerk of the court shall tax as costs, in each civil, criminal, and probate case in which a record of any part of the evidence in the case is made by the reporter, a stenographer's fee of \$25. The fee shall be paid in the same manner as other costs in the case. The clerk shall collect the fee and pay it into the general fund of the county.

“(c) The county attorney and sheriff shall attend the County Court at Law of Nolan County as required by the judge of the court. The county clerk serves as clerk of the court, except that in matters within the concurrent jurisdiction of the county court at law and the district court the district clerk serves as clerk of the court.

“(d) The commissioners court shall provide the physical facilities and the deputy clerks, bailiffs, and other personnel necessary to operate the County Court at Law of Nolan County.

“Section 7. SPECIAL JUDGE. (a) If the regular judge of the County Court at Law of Nolan County is absent or is from any cause disabled or disqualified from presiding, the presiding judge of the administrative judicial district in which the county is located may appoint a person licensed to practice law in this state to sit as a special judge.

“(b) To be eligible for appointment as a special judge, the person must meet the qualifications required of the regular judge, except that a person who is a retired judge of a district court or county court at law must reside in the administrative judicial district.

“(c) A special judge must take the oath of office that is required by law for a regular judge and has all the power and jurisdiction of the court and of the regular judge for whom he is sitting. A special judge may sign orders, judgments, decrees, or other process of any kind as ‘Judge Presiding’ when acting for the regular judge.

“(d) A special judge is entitled to receive for the services performed the same amount of compensation that the regular judge is entitled to receive for the services. The compensation shall be paid out of county funds on certification by the presiding judge of the administrative judicial district that the special judge has rendered the services and is entitled to receive the compensation. None of the amount paid to a special judge for sitting for the regular judge may be deducted or paid out of the salary of the regular judge. Section 42.104, Title 110B, Revised Statutes, does not apply to a retired district judge who is appointed a special judge under this section.

“Section 8. TRANSFER OF CASES; EXCHANGE OF BENCHES. (a) The judge of the county court and the judge of the County Court at Law of Nolan County may transfer cases to and from the dockets of their respective courts, except that 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 may not be transferred unless it is within the jurisdiction of the court to which it is transferred. The county judge and the judge of the county court at law may exchange benches and courtrooms with each other so that if one is absent, disabled, or disqualified, the other may hold court for him without the necessity of transferring the case. Either judge 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. 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.

“(b) On motion of a party, on agreement of the parties, or on their own motion, the judges of the County Court at Law of Nolan County and district courts in the 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 one of the other courts.

“(c) When a case is transferred from one court to another as provided by this section, 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.

“Section 9. JURIES; PRACTICE AND PROCEDURE. Except as otherwise provided by this section, the drawing of jury panels, selection of jurors, and practice in the County Court at Law of Nolan County must conform to that prescribed by general law for county courts. Practice, procedures, rules of evidence, issuance of process and writs, juries, 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 district courts shall be governed by the laws and rules pertaining to district courts, except that if a jury trial is requested in a case that is within the jurisdiction of the court as provided by Subsection (a) of Section 2 of this Act, the jury shall be composed of six persons, unless the constitution requires a 12-person jury. Unless a person objects not later than the 10th day after the day the case is set for trial, the person waives the right to a 12-person jury.

“Section 10. SEAL. The seal of the County Court at Law of Nolan County is the same as that provided by law for county courts, except that the seal must contain the words ‘County Court at Law of Nolan County.’ ~~shall have original and concurrent jurisdiction with the County~~

Court of Nolan County, in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of this State, County Courts have jurisdiction, except as provided in Section 6 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the County Judge of Nolan County, Texas, as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain, which are now within the jurisdiction of the Commissioners Court or the Judge of Nolan County.

"(b) With the consent of the other, the Judge of either of such Courts shall have the power to transfer to the other Court any case over which the Courts have concurrent jurisdiction pending upon the docket of his Court except in cases where the writ of certiorari has been granted.

"[Section 3. The County Court at Law of Nolan County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil matters which by the General Laws of this State is conferred upon Justice Courts. Neither the County Court at Law of Nolan County nor the Judge thereof shall have jurisdiction to act as a Coroner nor to preside at inquests; nor have jurisdiction of claims which come within the jurisdiction of the Small Claims Court as prescribed by Article 2160a of the Revised Civil Statutes of Texas.

"[Section 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of the County Court at Law of Nolan County in civil cases of which said court had appellate or original concurrent jurisdiction with the Justice Court where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

"[Section 5. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the County Court at Law of Nolan County over such matters as are specified in this Act; nor shall this Act be construed to deny the right of an appeal to the County Court of Law of Nolan County from the Justice Court, where the right of appeal to the County Court now exists by law.

"[Section 6. The County Court of Nolan County shall retain, as heretofore, the general jurisdiction of a Probate Court; it 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, administrators and guardians; 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; and to apprentice minors as provided by law; and the said Court, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said Court; and also to punish contempts under such provisions as are or may be provided by General Law governing County Courts throughout the State. The County Judge of Nolan County shall be the Judge of the County Court of Nolan County. All ex/officio duties of the County Judge shall be exercised by the Judge of the County Court of Nolan County except in so far as the same shall, by this Act, be committed to the Judge of the County Court at Law of Nolan County.

"[Section 7. The terms of the County Court at Law of Nolan County shall be as prescribed by the laws relating to the County Courts. The terms of the County Court at Law of Nolan County shall be held as now established for the terms of the County Court of Nolan County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Nolan County.

"[Section 8. There shall be elected in Nolan County by the qualified voters thereof, at each General Election, a Judge of the County Court at Law of Nolan County. No person shall be elected or appointed Judge of the Court who is not a resident citizen of Nolan County. He shall also be a licensed Attorney of the State of Texas and shall have been a licensed Attorney of the State of Texas for at least two (2) years immediately prior to his appointment or election. The person elected such Judge shall hold his office for four (4) years and until his successor shall have been duly elected and qualified.

"[Section 9. The County Attorney of Nolan County shall represent the State in all prosecutions in the County Court at Law of Nolan County, as provided by law for such prosecutions in County Courts; and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

"[Section 10. As soon as this Act becomes effective the Commissioners Court of Nolan County shall appoint a Judge of the County Court at Law of Nolan County, who shall hold his office until the next General Election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said court.

"[Section 11: The Judge of the County Court at Law of Nolan County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

"[Section 12: The Judge of the County Court at Law of Nolan County shall execute a bond and take the oath of office as required by law relating to County Judges.

"[Section 13: A special Judge of the County Court at Law of Nolan County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof. He shall receive the sum of Thirty Dollars (\$30) per day for each day he so actually serves; to be paid out of the general fund of the county by the Commissioners Court.

"[Section 14: In the case of the disqualification of the Judge of the County Court at Law of Nolan County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law of Nolan County is disqualified. In case of the selection of such Special Judge by agreement of the parties or their Attorneys, such Special Judge shall draw the same compensation as that provided in Section 13 of this Act.

"[Section 15: The County Court at Law of Nolan County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the Court and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court or of any other Court in said County of inferior jurisdiction to the County Court at Law.

"[Section 16: The County Clerk of Nolan County shall be the clerk of the County Court at Law of Nolan County, and 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 Nolan County.'

"[Section 17: The Sheriff of Nolan County shall in person or by deputy attend the County Court at Law of Nolan County when required by the Judge thereof.

"[Section 18: The jurisdiction and authority now vested by law in the County Court of Nolan County and the Judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law of Nolan County and the Judge thereof; but jurors and talesmen summoned for either of said Courts may by order of the Judge of the Court in which they are summoned be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law of Nolan County and the Judge of the County Court of Nolan County, jurors may be summoned for service in both Courts and shall be used interchangeably in both such Courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act; and their acts as jurors shall be as valid as if they had been selected as jurors in the Court for which they were originally drawn.

"[Section 19: Any vacancy in the office of the Judge of the County Court at Law of Nolan County shall be filled by the Commissioners Court; and when so filled, the Judge shall hold office until the next General Election and until his successor is elected and qualified.

"[Section 20: The Judge of the County Court at Law of Nolan County shall receive the same salary and be paid from the same fund and in the same manner as is now prescribed or may be established by law for the County Judge of Nolan County, to be paid out by the County Treasurer of Nolan County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments.

"[Section 21: The Judge of the County Court at Law of Nolan County shall assess the same fees as are prescribed by law relating to the County Judge's fees all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection; no part of which shall be paid to the Judge; but he shall draw the salary as above specified in this Act.

"[Section 22: The Judge of the County Court at Law of Nolan County may appoint an official shorthand reporter for such Court who shall be well-skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Nolan County to be paid out of the

County Treasury of Nolan County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

“[Section 23. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Nolan County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Nolan County.]”

**SECTION 2.** The person serving a term as judge of the County Court at Law of Nolan County on the effective date of this Act is not subject to, during that term or during any period after the expiration of that term but before a successor is appointed and qualified, the qualifications required by Section 5, Chapter 100, Acts of the 56th Legislature, Regular Session, 1959 (Article 1970-347, Vernon's Texas Civil Statutes), as amended by this Act.

**SECTION 3.** 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 the Senate on April 18, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 17, 1985, by the following vote: Yeas 134, Nays 0, one present not voting.

Approved: June 11, 1985

Effective: Immediately