

CHAPTER 231

H.B. No. 186

AN ACT

relating to the redesignation of the County Court at Law of Hays County as County Court at Law No. 1 of Hays County and to the creation of the County Court at Law No. 2 of Hays County.

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

SECTION 1. Chapter 298, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1970-358, Vernon's Texas Civil Statutes), is amended to read as follows:

1526

Sec. 1. (a) ~~The~~ ~~[There is created a court in Hays County to be called the]~~ County Court at Law No. 1 of Hays County is created.

(b) ~~The County Court at Law No. 2 of Hays County is created on the date determined by Section 8 of this Act.~~

Sec. 2. (a) The county courts ~~[court]~~ at law have ~~[has]~~ the same jurisdiction over all causes and proceedings, civil, criminal, original, and appellate, prescribed by the law for county courts, and ~~their [its]~~ jurisdiction is concurrent with that of the County Court of Hays County. The county courts ~~[court]~~ at law have ~~[has]~~ jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the amount in controversy exceeds \$500 and does not exceed ~~\$50,000~~ ~~[\$20,000]~~, exclusive of interest. The county courts ~~[court]~~ at law, the County Court of Hays County, and the district court in Hays County have jurisdiction over juvenile matters, and any of those courts may be designated a juvenile court. The county courts ~~[court]~~ at law ~~do~~ ~~[does]~~ not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways which are within the jurisdiction of the commissioners court or County Court of Hays County.

(b) The county courts ~~[court]~~ at law have ~~[has]~~ the general jurisdiction of a probate court within the limits of Hays County, and ~~their [its]~~ jurisdiction is concurrent with that of the County Court of Hays County in probate matters and in proceedings.

(c) ~~A~~ ~~[The]~~ county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. ~~A~~ ~~[The]~~ court and ~~its~~ judge also have the power to punish for contempt as prescribed by law for county courts. The judge of ~~a~~ ~~[the]~~ county court of law has all other powers, duties, and immunities and privileges provided by law for county court judges, and ~~each judge [he]~~ is a magistrate and conservator of the peace.

(d) The County Judge of Hays County is a judge of the County Court of Hays County. All ex officio duties of the county judge shall be exercised by the Judge of the County Court of Hays County except insofar as the same are, by this Act, committed to the ~~judges [Judge]~~ of the ~~county courts at law~~ ~~[County Court at Law of Hays County]~~.

(e) In addition to the jurisdiction conferred on the ~~county courts at law~~ ~~[County Court at Law of Hays County]~~ by the other provisions of this Act, the county courts ~~[court]~~ at law have ~~[has]~~ concurrent jurisdiction with the district court in Hays County in suits and causes involving family law matters, including adoptions; birth records; removal of disability of minority or coverture; change of name of persons; divorce and marriage annulment cases, including the adjustment of property rights, custody and support of minor children involved, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; and 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. The provisions in this subsection do not diminish the jurisdiction of the district court in Hays County, and the district court shall retain and continue to exercise the jurisdiction that is conferred by law on district courts.

(f) ~~The county courts at law have concurrent jurisdiction with the district court in:~~

- (1) ~~appeals of final rulings and decisions of the Industrial Accident Board; and~~
- (2) ~~eminent domain cases and proceedings, regardless of the amount in controversy.~~

Sec. 3. The terms of the ~~county courts at law~~ ~~[County Court at Law of Hays County]~~ are the same as those for the County Court of Hays County, Texas.

Sec. 4. (a) There shall be elected a judge of ~~each of the county courts at law~~ ~~[County Court at Law of Hays County]~~ who must have been a duly licensed and practicing member of the State Bar of Texas for not less than four years, who must be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Hays County for a period of not less than one year prior to the

general election. Beginning at the general election in 1974 and every four years thereafter, the qualified voters of the county shall elect a judge who holds office for four years and until his successor has been duly elected and has qualified.

(b) ~~[When this Act becomes effective, the Commissioners Court of Hays County, Texas, shall appoint a judge to the County Court at Law of Hays County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified.]~~ Any vacancy occurring in the office of the *judge* [Judge] of a *county court at law* [~~the County Court at Law of Hays County~~] may be filled by *appointment* [~~in like manner~~] by the commissioners court and the appointee holds office until the next general election and until his successor has been duly elected and has qualified. *An appointee must have the qualifications of the regular judge.*

(c) The *judges* [Judge] of the *county courts at law* must [~~County Court at Law of Hays County shall~~] execute a bond and take the oath of office prescribed by law for county judges. The *judges* [He] may be removed from office in the same manner and for the same causes as a county judge.

(d) The Commissioners Court of Hays County shall *set* [~~fix~~] the salary of the *judges* [Judge] of the *county courts at law* [~~County Court at Law of Hays County~~]. The *judges* [judge] shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the *judges* [judge].

(e) A special judge of a [~~the~~] county court at law 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.

(f) If *the* [a] judge of a [~~the~~] county court at law is disqualified to try a case pending in *the judge's* [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 compensation provided in Subsection (e) of this section.

Sec. 5. (a) The criminal district attorney, county clerk, and sheriff of Hays County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the *county courts at law* [~~County Court at Law of Hays County~~], except that the district clerk shall serve as clerk of the *county courts* [court] at law in cases enumerated in Section 2(e) of this Act and shall establish a separate docket for *each* [~~the~~] county court at law. The Commissioners Court of Hays County may employ as many assistant district attorneys, deputy sheriffs, and bailiffs as are necessary to serve the *courts* [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 Hays County.

(b) The judge of a [~~the~~] county court at law may appoint an official court reporter who serves at the pleasure of the judge and who is entitled to the compensation fixed by the commissioners court. The official court reporter must have the qualifications prescribed by law for district court reporters.

(c) The *seals* [seal] of the *courts* must [~~court shall~~] contain the words "County Court at Law No. 1 of Hays County" and "County Court at Law No. 2 of Hays County," but in other respects *are* [~~is~~] identical with the seal of the County Court of Hays County.

Sec. 6. (a) Practice in the *county courts at law* [~~County Court at Law of Hays County~~] shall conform to that prescribed by law for the County Court of Hays County, 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 courts* [court] at law involving those matters of concurrent jurisdiction enumerated in Section 2(e) of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. If a case enumerated in Section 2(e) of this Act is tried before a jury, the jury shall be composed of 12 members.

(b) The judges of the county court and the *county courts* [court] at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. All cases within the concurrent jurisdiction of the *county courts* [court] at law and the district court may be instituted in or transferred

between the county *courts* [court] at law and the district court in Hays County. However, no case may be transferred from one court to the other 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, the other may hold court for him without the necessity of transferring the cause or proceeding, civil, criminal, or probate, involved. A [Either] judge may hear all or any part of a cause or proceeding pending in the county court or county *courts* [court] at law; and *the judge* [he] may rule or enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the *judges* [judge] of the county *courts* [court] at law may not sit or act in any cause or proceeding over which exclusive jurisdiction is vested by this Act in the Hays County Court.

(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 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.

Sec. 7. (a) The jurisdiction and authority now vested by law in the county clerk and the county judge of Hays County for the drawing, selection, and service of jurors and talesmen shall be also exercised by the county *courts* [court] at law and *their judges* [its judge]. Jurors and talesmen 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. Upon concurrence of the *judges* [judge] of the county *courts* [court] at law and the county judge, jurors may be summoned for service in *the* [both] courts and used interchangeably.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of [either] the county judge or the *judges* [judge] of the county *courts* [court] at law, be made available and shall serve for the week in [either] the county court or county *courts* [court] at law.

Sec. 8. *The County Court at Law No. 2 of Hays County is created on January 1, 1992, or on an earlier date determined by the Commissioners Court of Hays County.*

SECTION 2. 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 No. 2 of Hays County.

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 by the House on April 2, 1987, by a non-record vote. Passed by the Senate on May 14, 1987, by the following vote: Yeas 30, Nays 0.

Approved May 28, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.