

CHAPTER 662

S.B. No. 488

AN ACT

relating to the redesignation of County Court at Law Number 4 of Travis County as Probate Court No. 1 of Travis County.

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

SECTION 1. Section 1, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. CREATION. The County Court at Law Number 4 of Travis County is redesignated the Probate Court No. 1 of Travis County [~~created. The court shall sit in Austin, Texas.~~].

SECTION 2. Section 2, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. JURISDICTION [~~OF COUNTY COURT AT LAW~~]. (a) The Probate [County] Court No. 1 [~~at Law Number 4~~] of Travis County shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws of the state the county court of the county would have jurisdiction, and its jurisdiction is concurrent with the [other] county courts at law of Travis County. [~~The County Court at Law Number 4 of Travis County shall have and exercise jurisdiction concurrent with the County Court of Travis County and the other county courts at law of Travis County over all probate matters and proceedings.~~]

(b) The Probate [County] Court No. 1 of Travis County [~~at Law Number 4~~] has jurisdiction concurrent with the district court in civil cases when the matter in controversy exceeds \$500 and does not exceed the jurisdictional limit provided by law for the county courts at law of Travis County [~~\$20,000 exclusive of interest~~].

(c) The Probate Court No. 1 of Travis County has the general jurisdiction of a probate court within the limits of Travis County concurrent with the jurisdiction of the county court in probate matters and proceedings. The probate court may 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; and transact all business relating to deceased persons, lunacy proceedings, and the apprenticing of minors as provided by law.

(d) The Probate Court No. 1 of Travis County has general jurisdiction, concurrent with the jurisdiction of the county court, to hear and determine all actions, cases, matters, or proceedings instituted under:

(1) the Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes);

(2) Chapter 543, Acts of the 61st Legislature, Regular Session, 1969 (Article 5561c-1, Vernon's Texas Civil Statutes); and

(3) the Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes).

(e) The Probate Court No. 1 of Travis County has eminent domain jurisdiction. All actions, cases, matters, or proceedings of eminent domain arising under Chapter 21, Property Code, or under Section 4.302, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), shall be filed and docketed in Probate Court No. 1 of Travis County.

SECTION 3. Section 5, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. TERMS; PRACTICE AND PROCEDURE. (a) The terms of the Probate [County] Court No. 1 of Travis County [at Law Number 4] shall begin on the first Mondays in January, March, May, July, September, and November. Each [in each year, and each] term of the court continues [shall continue] until the business of the court is completed, but a term of court may not continue beyond the date fixed for the beginning of its new term unless an order is entered on the minutes during the term extending the term for a particular cause specified in the order [convening of the next succeeding term].

(b) The practice in the court, and appeals and writs of error from the court, shall be as prescribed by the laws relating to county courts, except as expressly provided by this Act. Appeals and writs of error may be taken from judgments and orders of the Probate Court No. 1 of Travis County and from judgments and orders of the Probate Court of Travis County and from judgments and orders of the judge, in civil and criminal cases, and in the same manner as prescribed by law relating to appeals and writs of error from judgments and orders of the county courts in similar cases. Appeals may be taken from interlocutory orders of the Probate Court No. 1 of Travis County appointing a receiver and from orders overruling a motion to vacate or an order appointing a receiver. The procedure and manner in which appeals from interlocutory orders are taken are governed by the laws relating to appeals from similar orders of the district courts.

SECTION 4. Section 6, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. JUDGE. The [Commissioners Court of Travis County shall appoint a] judge of the County Court at Law Number 4 is the judge of the Probate Court No. 1 of Travis County. Unless otherwise removed, the judge serves [who shall serve] until December 31, 1990 [the next general election], and until his or her successor is elected and has qualified. Beginning at the general election in 1990 [1982] and every four years thereafter, a judge of the Probate [County] Court No. 1 of Travis County [at Law Number 4] shall be elected by the qualified voters of the county for a regular term of four years. The judge must be a qualified voter in the county, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, who shall have been actively engaged in the practice of law for a period of not less than five [two] years next preceding the judge's election or appointment.

SECTION 5. Section 7, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. BOND AND OATH. The judge of the Probate [County] Court No. 1 of Travis County [at Law Number 4] shall execute a bond and take the oath of office as required by law relating to county judges.

SECTION 6. Section 8, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. VACANCY[; QUARTERS]. Any vacancy in the office of the judge of the Probate [County] Court No. 1 of Travis County [at Law Number 4] shall be filled by the

commissioners court. *The appointee serves*~~, and when so filled, the judge shall hold office]~~ until the next general election and until his successor is elected and has qualified. The commissioners court shall provide suitable quarters for the holding of the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~.

SECTION 7. Section 9, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. **DISQUALIFICATION; ABSENCE; INCAPACITY.** In the case of the disqualification, *absence, or incapacity* of the judge of the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~ to try any case pending in the court, *the county judge shall sit and act as judge and 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 that matter or proceeding that the judge of the court may enter* ~~[the parties or their attorneys may agree on the selection of a special judge to try the case, or the judges of the county courts at law may exchange benches or transfer a case to another county court at law, as provided by law. A special judge may be appointed or elected as provided by law for county judges or for judges of county courts at law, who shall receive such compensation as may be provided by law for special judges of county courts or county courts at law, whichever is the greater, to be paid out of the general funds of the county by the commissioners court]~~.

SECTION 8. Section 10, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. **REMOVAL.** The judge of the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~ may be removed from office in the same manner and for the same causes as any county judge or judge of a county court at law may be removed under the laws of the state.

SECTION 9. Section 11, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. **COURT REPORTER.** The judge of the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~ shall appoint an official court reporter. *The reporter must be well skilled in his profession. The reporter is a sworn officer of the court and holds office at the pleasure of the court. The reporter must have the* ~~[who shall have the same] qualifications prescribed [and whose duties shall in every respect be as provided] by law for official court reporters. The official court reporter is entitled to the same amount of compensation paid to the official court reporters in the district courts of Travis County. The reporter's salary shall be paid in the same manner as the compensation of the official court reporters of the district courts of Travis County is paid~~ ~~[fixed by the commissioners court]~~.

SECTION 10. Section 12, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. **WRIT POWER; CONTEMPT.** The *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~ and the judge thereof, shall have 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 cases where the offense charged is within the jurisdiction of the court or of any other court in the county with concurrent or inferior jurisdiction to the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~. *The court may punish for contempt as provided by general law for county courts.*

SECTION 11. Section 13, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. **APPEALED CASES.** All cases appealed from the justice courts and other inferior courts in Travis County shall be made direct to the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~ or to any other county court at law of Travis County.

SECTION 12. Section 14, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. PERSONNEL; SEAL. (a) The county clerk of Travis County shall be the clerk of the *Probate [County] Court No. 1 of Travis County*. ~~[at Law Number 4. 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 Number 4 of Travis County."]~~ The sheriff of Travis County shall in person or by deputy attend the court when required by the judge of the court.

(b) The county attorney of Travis County shall represent the state in all prosecutions pending in the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~, and shall be entitled to the same fee as now prescribed by law for such prosecution in the county courts.

SECTION 13. Section 15, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15. JURORS. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors shall be exercised by the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~ or by any ~~[other]~~ county court at law of Travis County, but juries summoned for either or any of the courts may, by order of the judge of the court in which they are summoned, be transferred to any of the other courts for service therein and may be used in any of those courts as if summoned for the court to which they are transferred.

SECTION 14. Section 16, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. COMPENSATION. The judge of the *Probate [County] Court No. 1 of Travis County* is entitled to receive an annual salary set ~~[at Law Number 4 may be paid]~~ by the commissioners court at ~~[a yearly salary in]~~ an amount that is at least equal to the salary ~~[determined by the commissioners court, but not more than 90 percent of the amount]~~ paid district judges from the General Revenue Fund of the state but not more than the amount that is \$1,000 less than the annual salary, including supplements, received by a district judge in the county. The salary shall be paid out of the general fund of the county in equal monthly installments by warrants drawn upon the county treasurer upon orders of the commissioners court. The judge of the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~ shall assess the same fees and costs as are now prescribed by law for county judges, to be deposited in the county treasury as prescribed by law.

SECTION 15. Section 17, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. PRIVATE PRACTICE PROHIBITED. The judge of the *Probate [County] Court No. 1 of Travis County* ~~[at Law Number 4]~~ shall not engage in the private practice of law while holding the office of judge of the court.

SECTION 16. Chapter 373, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 1970-324a.2, Vernon's Texas Civil Statutes), is amended by adding Sections 18 and 19 to read as follows:

Sec. 18. SEAL. *The seal of the Probate Court No. 1 of Travis County shall be the same as the seal provided by law for county courts, except that the seal must contain the words "Probate Court No. 1 of Travis County."*

Sec. 19. ADMINISTRATIVE ASSISTANT; AUDITOR. *The judge of the Probate Court No. 1 of Travis County may appoint an administrative assistant and an auditor to aid him in the performance of his duties. The judge sets the salary of the administrative assistant and the salary of the auditor by an order entered in the minutes of the court. The appointments and the salaries may only be changed by order of the judge. The salaries of the auditor and the administrative assistant shall be paid monthly out of the general fund of the county or out of any other fund available for the purpose.*

SECTION 17. Sections 3 and 4, Chapter 373, Acts of the 66th Legislature, Regular Session, 1979 (Article 1970-324a.2, Vernon's Texas Civil Statutes), are repealed.

SECTION 18. This Act takes effect October 1, 1987.

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.

Passed the Senate on April 2, 1987, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 20, 1987, by a viva-voce vote.

Passed the House, with amendment, on May 15, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Oct. 1, 1987.