

## **BILL ANALYSIS**

Senate Research Center  
76R14478 DB-D

C.S.H.B. 2136  
By: Hilderbran (Wentworth)  
Intergovernmental Relations  
5/6/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, there is a perceived local need for a new county court in Kendall County. This bill would create a new statutory county court in Kendall County, with concurrent jurisdiction with the district court in all nonfelony cases and family law matters.

### **PURPOSE**

As proposed, H.B. 2136 creates a new statutory county court in Kendall County, with concurrent jurisdiction with the district court in all nonfelony cases and family law matters.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 25C, Government Code, by adding Sections 25.1321 and 25.1322, as follows:

Sec. 25.1321. KENDALL COUNTY. Provides that Kendall County has one statutory county court, the County Court at Law of Kendall County.

Sec. 25.1322. KENDALL COUNTY COURT AT LAW PROVISIONS. (a) Provides that in addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law of Kendall County has concurrent jurisdiction with the district court, except as limited by Subsection (b).

(b) Provides that a county court of law does not have jurisdiction of certain cases.

(c) Prohibits a county court at law from issuing a writ of habeas corpus in a felony case over which the court has jurisdiction.

(d) Requires the commissioners court by order entered of record to set at least two terms of court each year for each county court at law.

(e) Prohibits a judge of a county court at law from engaging in the private practice of law.

(f) Authorizes a special judge of a county court at law to be appointed or elected in the manner provided by law for the appointment or election of a special county judge.

(g) Provides that the district clerk serves as the clerk of a county court at law in matters in which the county court at law has concurrent jurisdiction with the district court. Provides that the county clerk serves as the clerk of a county court at law in all other matters. Requires the district clerk to establish a separate docket for each county court at law.

(h) Requires a judge of a county court at law to be paid an annual salary that is at least equal to the amount that is \$4,000 less than the total annual salary received by a district judge in the county.

(i) Requires the county sheriff, in person or by deputy, to attend a county court at law as required by the judge.

(j) Authorizes jurors regularly impaneled for a week by the district courts to be made available and required to serve for the week in the county court at law, on request of a county court at law judge.

(k) Provides that if any cause or proceeding is lodged with the district clerk and the district clerk files, docket, or assigns, the cause or proceeding in or to a county court at law and the county court at law does not have subject matter jurisdiction over the cause or proceeding, then the filing, docketing, or assignment of the cause or proceeding in or to a county court at law is considered a clerical error and that clerical error is required to be corrected by a judgment or order nunc pro tunc. Provides that the cause or proceeding is considered filed, docketed, or assigned to the district court of the local administrative judge in the first instance rather than to a county court at law of Kendall County. Provides that the judge of a county court at law of Kendall County who acts in the cause or proceeding is considered assigned to the district court of the local administrative judge for that purpose and has all the powers of the judge of that district court under the assignment.

SECTION 2. Creates the County Court at Law of Kendall County on January 1, 2001, or on an earlier date determined by the commissioners court by an order entered into its minutes, notwithstanding Section 25.1321, Government Code.

SECTION 2. Emergency clause.  
Effective date: 90 days after adjournment.

### **SUMMARY OF COMMITTEE CHANGES**

#### **SECTION 1.**

Amends Section 25.1322, as follows:

(a) Provides that in addition to the jurisdiction provided by Section 25.0003 and other law, a county court at law of Kendall County has concurrent jurisdiction with the district court, except as limited by Subsection (b), rather than concurrent jurisdiction with the district court in nonfelony criminal cases and family law matters.

(b) Provides that a county court of law does not have jurisdiction of certain cases. Redesignates proposed Subsection (b) as Subsection (d).

(c) Prohibits a county court at law from issuing a writ of habeas corpus in a felony case over which the court has jurisdiction. Redesignates proposed Subsection (c) as Subsection (e). Deletes proposed Subsection (d) regarding the salary of a county court at law judge.

(f) Authorizes a special judge of a county court at law to be appointed or elected, rather than just appointed, in the manner provided by law for the appointment or election of a special county judge. Deletes proposed text requiring a special judge to have the same qualifications and entitling the special judge to the same rate of compensation as a regular judge. Redesignates proposed Subsection (e) as Subsection (f).

(g) Requires the district clerk to establish a separate docket for each county court at law. Redesignates proposed Subsection (f) as Subsection (g).

(h) Requires a judge of a county court at law to be paid an annual salary that is at least equal to the amount that is \$4,000 less than the total annual salary received by a district judge in the county.

(i) Requires the county sheriff, in person or by deputy, to attend a county court at law as required by the judge.

(j) Authorizes jurors regularly impaneled for a week by the district courts to be made available and

required to serve for the week in the county court at law, on request of a county court at law judge.

(k) Provides that if any cause or proceeding is lodged with the district clerk and the district clerk files, docket, or assigns, the cause or proceeding in or to a county court at law and the county court at law does not have subject matter jurisdiction over the cause or proceeding, then the filing, docketing, or assignment of the cause or proceeding in or to a county court at law is considered a clerical error and that clerical error is required to be corrected by a judgment or order nunc pro tunc. Provides that the cause or proceeding is considered filed, docketed, or assigned to the district court of the local administrative judge in the first instance rather than to a county court at law of Kendall County. Provides that the judge of a county court at law of Kendall County who acts in the cause or proceeding is considered assigned to the district court of the local administrative judge for that purpose and has all the powers of the judge of that district court under the assignment.