

By: Metcalf

H.B. No. 1436

A BILL TO BE ENTITLED

AN ACT

relating to the redesignation of County Court at Law No. 2 of Montgomery County as Probate Court No. 1 of Montgomery County, the jurisdiction and authority of statutory probate courts in Montgomery County, and the composition of the Montgomery County Juvenile Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.1721, Government Code, is amended to read as follows:

Sec. 25.1721. MONTGOMERY COUNTY. (a) Montgomery County has the following statutory county courts:

(1) County Court at Law No. 1 of Montgomery County;

(2) ~~[County Court at Law No. 2 of Montgomery County;~~

~~[(3)]~~ County Court at Law No. 3 of Montgomery County;

(3) ~~[(4)]~~ County Court at Law No. 4 of Montgomery County;

(4) ~~[(5)]~~ County Court at Law No. 5 of Montgomery County; and

(5) ~~[(6)]~~ County Court at Law No. 6 of Montgomery County.

(b) Montgomery County has one statutory probate court, the Probate Court No. 1 of Montgomery County.

SECTION 2. Subchapter C, Chapter 25, Government Code, is amended by adding Section 25.1723 to read as follows:

Sec. 25.1723. MONTGOMERY COUNTY PROBATE COURT PROVISIONS.

(a) In this section, "remote proceeding" means a proceeding before a court in which one or more of the participants, including a judge, party, attorney, witness, court reporter, or other individual, attends the proceeding remotely through the use of technology and the Internet, including through teleconferencing or videoconferencing.

(b) A statutory probate court of Montgomery County has concurrent jurisdiction with the district court, regardless of the amount in controversy or the relief sought, in:

(1) disputes relating to the creation of a constructive trust;

(2) declaratory judgment actions;

(3) actions in which the only relief sought is a writ of injunction; and

(4) actions to appoint a receiver under any law, including Section 11.402, Business Organizations Code.

(c) A statutory probate court of Montgomery County has eminent domain jurisdiction, including the jurisdiction provided to a district court under Sections 21.002 and 21.003, Property Code, regardless of the amount in controversy or the remedy sought. All eminent domain actions, cases, matters, or proceedings arising under Chapter 21, Property Code, or under Section 251.101, Transportation Code, shall be filed and docketed in a statutory probate court.

(d) A statutory probate court of Montgomery County may conduct docket matters at any location in the county as the

1 statutory probate court judge considers necessary for the
2 protection of wards or mental health respondents or as otherwise
3 provided by law.

4 (e) A statutory probate court of Montgomery County may:

5 (1) conduct a hearing or other proceeding as a remote
6 proceeding without the consent of the parties unless the United
7 States Constitution or Texas Constitution requires consent; and

8 (2) allow or require a party, attorney, witness, court
9 reporter, or any other individual to participate in a remote
10 proceeding, including a deposition, hearing, or other proceeding
11 under this title.

12 (f) A judge of a statutory probate court in Montgomery
13 County and a judge of a district court or statutory county court in
14 Montgomery County may exchange benches and may sit and act for each
15 other in any matter pending before the court.

16 (g) The county clerk of Montgomery County serves as clerk of
17 a statutory probate court.

18 (h) A statutory probate court of Montgomery County may
19 appoint as a court investigator an employee of the court or another
20 department in the county to comply with Section 25.0025.

21 (i) In addition to the uses authorized by Section 135.159,
22 Local Government Code, Montgomery County may use the fees collected
23 under Section 135.102, Local Government Code, and deposited into
24 the judicial education and support fund to provide staff for the
25 statutory probate courts and for court-related purposes for the
26 support of the statutory probate courts.

27 SECTION 3. Section 152.1761(a), Human Resources Code, is

1 amended to read as follows:

2 (a) The juvenile board of Montgomery County is composed of
3 the county judge, the district judges in Montgomery County, the
4 judge of each statutory probate court, and the judge of each county
5 court at law.

6 SECTION 4. (a) The County Court at Law No. 2 of Montgomery
7 County is redesignated as the Probate Court No. 1 of Montgomery
8 County.

9 (b) The judge of the County Court at Law No. 2 of Montgomery
10 County is the judge of the Probate Court No. 1 of Montgomery County.
11 Unless otherwise removed, the judge serves until December 31, 2026,
12 and until the judge's successor is elected and has qualified. In
13 the 2026 general election and every four years following that
14 election, the qualified voters of the county shall elect a judge of
15 the Probate Court No. 1 of Montgomery County for a regular term of
16 four years.

17 SECTION 5. (a) The judge of the County Court at Law No. 2 of
18 Montgomery County shall transfer all active cases over which the
19 court loses jurisdiction under this Act and that are pending in the
20 court on October 1, 2023, to a district court, county court at law,
21 or county court in the county with jurisdiction over the case.

22 (b) The local administrative statutory county court judge
23 shall transfer any active probate matter that is pending in a
24 statutory county court in Montgomery County on October 1, 2023, to
25 Probate Court No. 1 of Montgomery County.

26 (c) When a case is transferred as provided by Subsection (a)
27 or (b) of this section, all processes, writs, bonds, recognizances,

1 or other obligations issued from the transferring court are
2 returnable to the court to which the case is transferred as if
3 originally issued by that court. The obligees on all bonds and
4 recognizances taken in and for a court from which a case is
5 transferred, and all witnesses summoned to appear in a court from
6 which a case is transferred, are required to appear before the court
7 to which a case is transferred as if originally required to appear
8 before that court.

9 SECTION 6. This Act takes effect October 1, 2023.