

By: Miller of Comal

H.B. No. 3285

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of a judicial district composed of Kendall
3 County, the composition of the 216th Judicial District, the
4 creation of a criminal district attorney of Kendall County, and the
5 abolishment of the County Court at Law of Kendall County and the
6 office of county attorney of Kendall County.

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

8 SECTION 1. Section 24.275, Government Code, is amended to
9 read as follows:

10 Sec. 24.275. 216TH JUDICIAL DISTRICT (GILLESPIE [~~7~~
11 ~~KENDALL~~], AND KERR COUNTIES). The 216th Judicial District is
12 composed of Gillespie [~~7~~, ~~Kendall~~] and Kerr counties.

13 SECTION 2. Subchapter C, Chapter 24, Government Code, is
14 amended by adding Section 24.591 to read as follows:

15 Sec. 24.591. 451ST JUDICIAL DISTRICT (KENDALL COUNTY). (a)
16 The 451st Judicial District is composed of Kendall County.

17 (b) In addition to the other jurisdiction provided by law,
18 the 451st District Court has concurrent jurisdiction with the
19 County Court of Kendall County in all civil and criminal matters
20 over which the county court would have original or appellate
21 jurisdiction, including probate matters and proceedings under
22 Subtitle C, Title 7, Health and Safety Code.

23 (c) All civil and criminal matters within the concurrent
24 jurisdiction of the county and district courts must be filed with

1 the county clerk in the county court. The county clerk serves as
2 the clerk of the district court for those matters.

3 SECTION 3. Section 44.001, Government Code, is amended to
4 read as follows:

5 Sec. 44.001. ELECTION. The voters of each of the following
6 counties elect a criminal district attorney: Anderson, Austin,
7 Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin,
8 Comal, Dallas, Deaf Smith, Denton, Eastland, Fannin, Galveston,
9 Grayson, Gregg, Harrison, Hays, Hidalgo, Jackson, Jasper,
10 Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison, Navarro,
11 Newton, Panola, Polk, Randall, Rockwall, San Jacinto, Smith,
12 Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker,
13 Waller, Wichita, Wood, and Yoakum.

14 SECTION 4. Subchapter B, Chapter 44, Government Code, is
15 amended by adding Section 44.230 to read as follows:

16 Sec. 44.230. KENDALL COUNTY. (a) The criminal district
17 attorney of Kendall County must meet the following qualifications:

- 18 (1) be at least 30 years old;
19 (2) have been a practicing attorney in this state for
20 at least five years; and
21 (3) have been a resident of Kendall County for at least
22 one year before election or appointment.

23 (b) The criminal district attorney has all the powers,
24 duties, and privileges in Kendall County that are conferred by law
25 on county and district attorneys in the various counties and
26 districts.

27 (c) The criminal district attorney shall attend each term

1 and session of the district and inferior courts of Kendall County,
2 except municipal courts, held for the transaction of criminal
3 business and shall exclusively represent the state in all criminal
4 matters before those courts.

5 (d) The criminal district attorney shall represent Kendall
6 County in any court in which the county has pending business. This
7 subsection does not require the criminal district attorney to
8 represent the county in a delinquent tax suit or condemnation
9 proceeding and does not prevent the county from retaining other
10 legal counsel in a civil matter at any time it considers appropriate
11 to do so.

12 (e) The criminal district attorney shall collect the fees,
13 commissions, and perquisites that are provided by law for similar
14 services rendered by a district or county attorney.

15 (f) The criminal district attorney is entitled to receive in
16 equal monthly installments compensation from the state equal to the
17 amount paid by the state to district attorneys. The state
18 compensation shall be paid by the comptroller as appropriated by
19 the legislature. The Commissioners Court of Kendall County shall
20 pay the criminal district attorney an additional amount so that the
21 total compensation of the criminal district attorney equals at
22 least 90 percent of the total salary paid to the judge of the 451st
23 District Court in Kendall County. The compensation paid by the
24 county shall be paid in semiweekly or bimonthly installments, as
25 determined by the commissioners court.

26 (g) The criminal district attorney or the Commissioners
27 Court of Kendall County may accept gifts and grants from any

1 individual, partnership, corporation, trust, foundation,
2 association, or governmental entity for the purpose of financing or
3 assisting effective prosecution, crime prevention or suppression,
4 rehabilitation of offenders, substance abuse education, treatment
5 and prevention, or crime victim assistance programs in Kendall
6 County. The criminal district attorney shall account for and
7 report to the commissioners court all gifts or grants accepted
8 under this subsection.

9 (h) The criminal district attorney, for the purpose of
10 conducting affairs of the office, may appoint a staff composed of
11 assistant criminal district attorneys, investigators,
12 stenographers, clerks, and other personnel that the commissioners
13 court may authorize. The salary of a staff member is an amount
14 recommended by the criminal district attorney and approved by the
15 commissioners court. The commissioners court shall pay the
16 salaries of the staff in equal semiweekly or bimonthly installments
17 from county funds.

18 (i) The criminal district attorney shall, with the advice
19 and consent of the commissioners court, designate one or more
20 individuals to act as an assistant criminal district attorney with
21 exclusive responsibility for assisting the commissioners court. An
22 individual designated as an assistant criminal district attorney
23 under this subsection must have extensive experience in
24 representing public entities and knowledge of the laws affecting
25 counties, including the open meetings and open records laws under
26 Chapters 551 and 552.

27 (j) Kendall County is entitled to receive from the state an

1 amount equal to the amount provided in the General Appropriations
2 Act to district attorneys for the payment of staff salaries and
3 office expenses.

4 (k) The legislature may provide for additional staff
5 members to be paid from state funds if it considers supplementation
6 of the criminal district attorney's staff to be necessary.

7 (l) The criminal district attorney and assistant criminal
8 district attorney may not engage in the private practice of law or
9 receive a fee for the referral of a case.

10 (m) A vacancy in the office of criminal district attorney is
11 filled by appointment by the Commissioners Court of Kendall County.
12 The appointee holds office until the next general election.

13 SECTION 5. Section 46.002, Government Code, is amended to
14 read as follows:

15 Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter
16 applies to the state prosecuting attorney, all county prosecutors,
17 and the following state prosecutors:

18 (1) the district attorneys for Kenedy and Kleberg
19 Counties and for the 1st, 2nd, 8th, 9th, 18th, 21st, 23rd, 25th,
20 26th, 27th, 29th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th,
21 42nd, 43rd, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th,
22 66th, 69th, 70th, 76th, 79th, 81st, 83rd, 84th, 85th, 88th, 90th,
23 97th, 100th, 105th, 106th, 109th, 110th, 112th, 118th, 119th,
24 123rd, 142nd, 143rd, 145th, 156th, 159th, 173rd, 196th, 198th,
25 216th, 220th, 229th, 235th, 253rd, 258th, 259th, 266th, 268th,
26 271st, 286th, 287th, 329th, 344th, 349th, 355th, 369th, 452nd, and
27 506th judicial districts;

1 (2) the criminal district attorneys for the counties
2 of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell,
3 Calhoun, Cass, Collin, Comal, Dallas, Deaf Smith, Denton, Eastland,
4 Fannin, Galveston, Grayson, Gregg, Harrison, Hays, Hidalgo,
5 Jasper, Jefferson, Kaufman, Kendall, Lubbock, McLennan, Madison,
6 Navarro, Newton, Panola, Polk, Randall, Rockwall, San Jacinto,
7 Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker,
8 Waller, Wichita, Wood, and Yoakum; and

9 (3) the county attorneys performing the duties of
10 district attorneys in the counties of Andrews, Callahan, Cameron,
11 Castro, Colorado, Crosby, Ellis, Falls, Freestone, Gonzales,
12 Lamar, Lamb, Lampasas, Lavaca, Lee, Limestone, Marion, Milam,
13 Morris, Ochiltree, Oldham, Orange, Rains, Red River, Robertson,
14 Rusk, Swisher, Terry, Webb, and Willacy.

15 SECTION 6. The office of county attorney of Kendall County
16 is abolished.

17 SECTION 7. Sections [25.1321](#) and [25.1322](#), Government Code,
18 are repealed, and the County Court at Law of Kendall County is
19 abolished on the date the 451st District Court is created.

20 SECTION 8. On the date the 451st District Court is created,
21 all cases from Kendall County pending in the 216th District Court
22 are transferred to the 451st District Court. On the date the County
23 Court at Law of Kendall County is abolished, all cases pending in
24 the court are transferred to the 451st District Court. When a case
25 is transferred from one court to another as provided by this
26 section, all processes, writs, bonds, recognizances, or other
27 obligations issued from the transferring court are returnable to

1 the court to which the case is transferred as if originally issued
2 by that court. The obligees in all bonds and recognizances taken in
3 and for a court from which a case is transferred and all witnesses
4 summoned to appear in a court from which a case is transferred are
5 required to appear before the court to which a case is transferred
6 as if originally required to appear before the court to which the
7 transfer is made.

8 SECTION 9. Notwithstanding Section [41.010](#), Government
9 Code, the initial vacancy in the office of the criminal district
10 attorney of Kendall County shall be filled by election. The office
11 exists for purposes of the primary and general elections in 2016. A
12 vacancy after the initial vacancy is filled as provided by Section
13 12, Article IV, Texas Constitution.

14 SECTION 10. Notwithstanding Section [24.026](#), Government
15 Code, the initial vacancy in the office of judge of the 451st
16 Judicial District shall be filled by election. The office exists
17 for purposes of the primary and general elections in 2016. A
18 vacancy after the initial vacancy is filled as provided by Section
19 28, Article V, Texas Constitution.

20 SECTION 11. The 451st Judicial District is created on the
21 effective date of this Act.

22 SECTION 12. This Act takes effect January 1, 2017.