

2849

2009-2010 Regular Sessions

I N S E N A T E

March 4, 2009

Introduced by Sen. SAMPSON -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the judiciary law, in relation to the emergency relocation of terms of courts; and to repeal certain provisions of the judiciary law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Sections 8, 9, 10, 11 and 12 of the judiciary law are
2 REPEALED and a new section 8 is added to read as follows:

3 S 8. EMERGENCY RELOCATIONS OF COURT TERMS. 1. NOTWITHSTANDING ANY
4 OTHER PROVISION OF LAW, IF AN EMERGENCY OR OTHER EXIGENT CIRCUMSTANCE OR
5 THE IMMINENT THREAT THEREOF PREVENTS THE SAFE AND PRACTICABLE HOLDING OF
6 A TERM OF ANY COURT AT THE LOCATION DESIGNATED BY LAW THEREFOR, THEN:

7 A. THE GOVERNOR, AFTER CONSULTATION WITH THE CHIEF JUDGE OR HIS OR HER
8 DESIGNEE IF PRACTICABLE, MAY BY EXECUTIVE ORDER APPOINT ANOTHER LOCATION
9 FOR THE TEMPORARY HOLDING OF SUCH TERM IF IT IS A TERM OF A TRIAL COURT;
10 OR

11 B. WHERE THE GOVERNOR HAS NOT ACTED PURSUANT TO PARAGRAPH A OF THIS
12 SUBDIVISION, OR IF IT IS A TERM OF A COURT OTHER THAN A TRIAL COURT, THE
13 CHIEF JUDGE OR HIS OR HER DESIGNEE (OR THE PRESIDING JUSTICE OF AN
14 APPELLATE DIVISION OR HIS OR HER DESIGNEE IF IT IS A TERM OF SUCH APPEL-
15 LATE DIVISION OR OF AN APPELLATE TERM ESTABLISHED IN THE JUDICIAL
16 DEPARTMENT SERVED BY SUCH APPELLATE DIVISION) MAY BY ORDER APPOINT
17 ANOTHER LOCATION FOR THE TEMPORARY HOLDING OF SUCH TERM; EXCEPT THAT,
18 WHERE THE COURT IS A TRIAL COURT, NOTHING IN THIS PARAGRAPH SHALL
19 PREVENT THE ISSUANCE OF A SUPERSEDING ORDER PURSUANT TO PARAGRAPH A OF
20 THIS SUBDIVISION.

21 2. TO THE EXTENT PRACTICABLE, AN ORDER PURSUANT TO SUBDIVISION ONE OF
22 THIS SECTION:

23 A. SHALL DESIGNATE THE MOST PROXIMATE LOCATION IN WHICH SUCH TERM OF
24 COURT SAFELY AND PRACTICABLY CAN BE HELD, WITHOUT LIMITATION BASED ON
25 THE JUDICIAL DEPARTMENT, JUDICIAL DISTRICT, COUNTY, CITY, TOWN, VILLAGE
26 OR OTHER GEOGRAPHICAL DISTRICT FOR WHICH SUCH COURT WAS ESTABLISHED;

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 B. SHALL BE MADE IN CONFORMANCE WITH STATE AND LOCAL DISASTER
2 PREPAREDNESS PLANS GOVERNING THE CONTINUED EFFECTIVE OPERATION OF THE
3 CIVIL AND CRIMINAL JUSTICE SYSTEMS PURSUANT TO SECTIONS TWENTY-TWO AND
4 TWENTY-THREE OF THE EXECUTIVE LAW; AND

5 C. FOR A TRIAL COURT OTHER THAN THE COURT OF CLAIMS, SHALL BE MADE
6 AFTER CONSULTATION WITH THE CHIEF EXECUTIVE OFFICER OF THE COUNTY, CITY,
7 TOWN OR VILLAGE FOR WHICH SUCH COURT WAS ESTABLISHED AND THE CHIEF EXEC-
8 UTIVE OFFICER OF THE CORRESPONDING COUNTY, CITY, TOWN OR VILLAGE TO
9 WHICH THE TERM OF SUCH COURT TEMPORARILY WOULD BE RELOCATED, OR THEIR
10 DESIGNEES.

11 3. AN ORDER PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE
12 EFFECTIVE FOR NO MORE THAN THIRTY DAYS AND MAY BE REAUTHORIZED FOR
13 SUCCESSIVE PERIODS OF NO MORE THAN THIRTY DAYS EACH IN LIKE FASHION AS
14 AN ORIGINAL ORDER. AS SOON AS PRACTICABLE, SUCH ORDER SHALL BE FILED
15 WITH THE OFFICE OF COURT ADMINISTRATION AND THE OFFICE OF THE CLERK OF
16 EACH COUNTY AFFECTED THEREBY, AND SHALL BE PUBLICIZED BY THE BEST MEANS
17 PRACTICABLE AND FOR SUCH DURATION AS SUCH ORDER SHALL PROVIDE.

18 4. EVERY TERM OF COURT SUBJECT TO AN ORDER PURSUANT TO SUBDIVISION ONE
19 OF THIS SECTION SHALL, FOR THE DURATION OF SUCH ORDER, CONTINUE TO
20 PRESIDE FOR THE ORIGINAL JUDICIAL DEPARTMENT, JUDICIAL DISTRICT, COUNTY,
21 CITY, TOWN, VILLAGE OR OTHER GEOGRAPHICAL DISTRICT FOR WHICH SUCH COURT
22 WAS ESTABLISHED, AND EVERY ACTION AND PROCEEDING IN SUCH TERM SHALL BE
23 SUBJECT TO THE SAME SUBSTANTIVE AND PROCEDURAL LAW AS WOULD HAVE APPLIED
24 HAD SUCH TERM NOT BEEN TEMPORARILY RELOCATED.

25 5. NOTWITHSTANDING ANY OTHER PROVISION OF SECTION THIRTY-NINE OF THIS
26 ARTICLE, IF AN ORDER PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL
27 TEMPORARILY RELOCATE A TERM OF COURT OUTSIDE THE COUNTY, CITY, TOWN OR
28 VILLAGE FOR WHICH SUCH COURT WAS ESTABLISHED, THEN THE COSTS OF TEMPO-
29 RARILY PROVIDING FACILITIES SUITABLE AND SUFFICIENT FOR THE TRANSACTION
30 OF BUSINESS OF SUCH COURT OUTSIDE SUCH COUNTY, CITY, TOWN OR VILLAGE
31 SHALL BE CHARGES UPON THE OFFICE OF COURT ADMINISTRATION.

32 S 2. Section 211 of the judiciary law is amended by adding a new
33 subdivision 5 to read as follows:

34 5. CONSISTENT WITH THE PROVISIONS OF SECTION EIGHT OF THIS CHAPTER,
35 THE CHIEF JUDGE MAY RELOCATE A TERM OF COURT IF AN EMERGENCY OR OTHER
36 EXIGENT CIRCUMSTANCE OR THE IMMINENT THREAT THEREOF PREVENTS THE SAFE
37 AND PRACTICABLE HOLDING OF SUCH TERM AT THE LOCATION DESIGNATED BY LAW
38 THEREFOR.

39 S 3. The disaster preparedness commission is directed to review and if
40 necessary amend and continuously maintain the state disaster prepared-
41 ness plan established pursuant to section twenty-two of the executive
42 law, and each county, city, town and village that has prepared a local
43 disaster preparedness plan pursuant to section twenty-three of the exec-
44 utive law is directed to review and if necessary amend and continuously
45 maintain such local plan to ensure state and local preparedness to
46 effectuate relocation orders authorized by section eight of the judici-
47 ary law as added by section one of this act.

48 S 4. This act shall take effect immediately.

REPEAL NOTE.--Sections 8, 9, 10, 11 and 12 of the judiciary law, as
repealed by section one of this act, provide limited authorization for
the governor, presiding judges, the mayor of the city of New York and
county judges to relocate certain courts under the circumstances stated
therein.