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I N   S E N A T E

March 8, 2012

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Introduced by Sen. BONACIC -- (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 civil practice law and rules, in relation to the discretionary retention of alternate jurors after final submission of the case

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

1     Section 1. Section 4106 of the civil practice law and rules, as  
2 amended by chapter 336 of the laws of 1972, is amended to read as  
3 follows:  
4     S 4106. Alternate jurors. [Unless the court, in its discretion, orders  
5 otherwise, one] ONE or [two] MORE additional jurors, to be known as  
6 "alternate jurors", may be drawn upon the request of a party AND CONSENT  
7 OF THE COURT. Such ALTERNATE jurors shall be drawn at the same time,  
8 from the same source, in the same manner, and have the same qualifications  
9 as [the] regular jurors, and be subject to the same examinations  
10 and challenges. They shall be seated with, take the oath with, and be  
11 treated in the same manner as the regular jurors[, except that after].  
12 AFTER final submission of the case, the court [shall discharge the] MAY,  
13 IN ITS DISCRETION, RETAIN SUCH alternate jurors[. If] TO ENSURE AVAIL-  
14 ABILITY IF NEEDED. AT ANY TIME, before OR AFTER the final submission of  
15 the case, a regular juror dies, or becomes ill, or [for any other  
16 reason] is unable to perform [his duty] THE DUTIES OF A JUROR, the court  
17 may order [him to be] THAT JUROR discharged and draw the name of an  
18 alternate, OR RETAINED ALTERNATE, IF ANY, who shall replace the  
19 discharged juror [in the jury box,] and be treated as if [he] THAT JUROR  
20 had been selected as one of the regular jurors. RETAINED ALTERNATE  
21 JURORS, EVEN THOUGH NOT SUBSTITUTED FOR DISABLED REGULAR JURORS, MAY  
22 NONETHELESS ATTEND, AND PARTICIPATE IN, JURY DELIBERATIONS, BUT ONLY  
23 UPON THE EXPRESS CONSENT OF ALL PARTIES.  
24     S 2. This act shall take effect on the first of January next succeeding  
25 the date on which it shall have become a law and shall apply to all  
26 actions commenced on or after such date and to all pending actions in  
27 which a jury has not yet been selected.

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

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