S T A T E O F N E W Y O R K

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:

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 Sections 8, 9, 10, 11 and 12 of the judiciary law are REPEALED and a new section 8 is added to read as follows:

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

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

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

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

A. SHALL DESIGNATE THE MOST PROXIMATE LOCATION IN WHICH SUCH TERM OF COURT SAFELY AND PRACTICABLY CAN BE HELD, WITHOUT LIMITATION BASED ON THE JUDICIAL DEPARTMENT, JUDICIAL DISTRICT, COUNTY, CITY, TOWN, VILLAGE 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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B. SHALL BE MADE IN CONFORMANCE WITH STATE AND LOCAL DISASTER PREPAREDNESS PLANS GOVERNING THE CONTINUED EFFECTIVE OPERATION OF THE CIVIL AND CRIMINAL JUSTICE SYSTEMS PURSUANT TO SECTIONS TWENTY-TWO AND TWENTY-THREE OF THE EXECUTIVE LAW; AND

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

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

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

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

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

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

S 3. The disaster preparedness commission is directed to review and if necessary amend and continuously maintain the state disaster preparedness plan established pursuant to section twenty-two of the executive law, and each county, city, town and village that has prepared a local disaster preparedness plan pursuant to section twenty-three of the executive law is directed to review and if necessary amend and continuously maintain such local plan to ensure state and local preparedness to effectuate relocation orders authorized by section eight of the judiciary law as added by section one of this act.

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.