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

2114

2011-2012 Regular Sessions

I N A S S E M B L Y

January 13, 2011

Introduced by M. of A. McENENY -- Multi-Sponsored by -- M. of A. CAHILL, CLARK, COLTON, COOK, GALEF, GOTTFRIED, JAFFEE, MAISEL, MILLMAN, REILLY, TOWNS, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law and the judiciary law, in relation to instructions to grand juries preliminary to assumption of their duties and to amend the criminal procedure law, in relation to the charge to the jury

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

Section 1. Section 190.20 of the criminal procedure law is amended by adding a new subdivision 7 to read as follows:

7. (A) AFTER A GRAND JURY HAS BEEN SWORN, THE COURT MUST DELIVER OR CAUSE TO BE DELIVERED TO EACH GRAND JUROR A COPY OF THE WRITTEN INSTRUCTIONS FOR GRAND JURORS PREPARED BY THE CHIEF ADMINISTRATOR OF THE COURTS IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (S) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TWELVE OF THE JUDICIARY LAW.

(B) THE PRESIDING JUDGE SHALL REVIEW SUCH WRITTEN INSTRUCTIONS WITH THE JURORS AFTER HAVING BEEN SWORN AND PRELIMINARY TO ASSUMPTION OF THEIR DUTIES. THE PRESIDING JUDGE SHALL MAKE HIMSELF OR HERSELF AVAILABLE TO ANSWER QUESTIONS OR MAKE FURTHER CLARIFICATIONS OF THESE INSTRUCTIONS. NOTHING HEREIN SHALL PREVENT THE PRESIDING JUDGE FROM GIVING THE JURORS FURTHER GUIDANCE, AS HE OR SHE SHALL DETERMINE REGARDING THE LEGAL DUTIES OF THE GRAND JURY, AND ITS RESPONSIBILITIES AND OBJECTIVES AS DEFINED IN THIS ARTICLE. IN ADDITION, THE JUDGE SHALL REMIND THE GRAND JURY OF ITS DUTIES AND RESPONSIBILITIES AT ANY TIME HE OR SHE SHALL DEEM NECESSARY, WHETHER SOLICITED BY THE GRAND JURY OR NOT.

S 2. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (s) to read as follows:

(S) PREPARE WRITTEN INSTRUCTIONS FOR GRAND JURORS, INCLUDING BUT NOT LIMITED TO THE FOLLOWING INFORMATION:

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

LBD01816-01-1

(I) THE GRAND JURY PERFORMS THE DUAL FUNCTION OF INVESTIGATING CRIMINAL ACTIVITY TO DETERMINE WHETHER SUFFICIENT EVIDENCE EXISTS TO ACCUSE A CITIZEN OF A CRIME, AND OF PROTECTING INDIVIDUALS FROM NEEDLESS AND UNFOUNDED PROSECUTIONS;

(II) IN A GRAND JURY PROCEEDING THE PROSECUTOR PERFORMS THE DUAL ROLE OF ADVOCATE AND PUBLIC OFFICER CHARGED WITH THE DUTY NOT ONLY TO SECURE INDICTMENTS BUT ALSO TO SEE THAT JUSTICE IS DONE;

(III) THE GRAND JURY DERIVES ITS AUTHORITY FROM THE CONSTITUTION OF THE STATE OF NEW YORK, CONSTITUTES A PART OF THE COURT WHICH IMPANELS IT AND IS NOT AN INSTRUMENTALITY OF THE PROSECUTOR OR DISTRICT ATTORNEY; AND

(IV) SUCH OTHER INFORMATION AS THE CHIEF ADMINISTRATOR MAY DEEM NECESSARY AND PROPER TO CLARIFY THE MISSION OF THE GRAND JURY IN THE INTERESTS OF JUSTICE.

S 3. Subdivision 1 of section 300.10 of the criminal procedure law is amended to read as follows:

1. At the conclusion of the summations, the court must deliver a charge to the jury AND MAY PROVIDE A WRITTEN SUMMARY THEREOF TO THE JURY.

S 4. This act shall take effect on the sixtieth day after it shall have become a law.