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

8972

I N A S S E M B L Y

January 10, 2012

Introduced by M. of A. MONTESANO -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to retaining alternate jurors until verdicts are returned

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

Section 1. Section 4106 of the civil practice law and rules, as amended by chapter 336 of the laws of 1972, is amended to read as follows:

S 4106. Alternate jurors. Unless the court, in its discretion, orders otherwise, one or two additional jurors, to be known as "alternate jurors", may be drawn upon the request of a party. Such jurors shall be drawn at the same time, from the same source, in the same manner, and have the same qualifications as the regular jurors, and be subject to the same examinations and challenges. They shall be seated with, take the oath with, and be treated in the same manner as the regular jurors[, except that after]. AFTER final submission of the case, the court shall [discharge] SEPARATE the alternate jurors FROM THE REGULAR JURORS FOR DELIBERATIONS, BUT SHALL NOT DISCHARGE EITHER OR BOTH ALTERNATE JURORS UNTIL THE FINAL VERDICT IS DELIVERED. If[, before the final submission of the case,] a regular juror dies, or becomes ill, or for any other reason is unable to perform his OR HER duty[, the court may order him to be discharged and draw the name of an alternate, who shall replace the discharged juror in the jury box, and be treated as if he had been selected as one of the regular jurors] AS A REGULAR JUROR AND IF SUCH INABILITY OCCURS AFTER THE FINAL SUBMISSION OF THE CASE AND PRIOR TO THE DELIVERY OF THE VERDICT, THE COURT SHALL DRAW THE NAME OF AN ALTERNATE WHO SHALL REPLACE SAID REGULAR JUROR. IN THE EVENT THAT AN ALTERNATE JUROR REPLACES A REGULAR JUROR, THE COURT SHALL DIRECT THAT THE JURY COMMENCE DELIBERATIONS ANEW AS IF NO PRIOR DELIBERATIONS OCCURRED.

S 2. This act shall take effect immediately.

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

LBD13899-03-2