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I N   A S S E M B L Y

January 10, 2012

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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 retain-  
ing alternate jurors until verdicts are returned

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, 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 or two additional jurors, to be known as "alternate  
6 jurors", may be drawn upon the request of a party. Such jurors shall be  
7 drawn at the same time, from the same source, in the same manner, and  
8 have the same qualifications as the regular jurors, and be subject to  
9 the same examinations and challenges. They shall be seated with, take  
10 the oath with, and be treated in the same manner as the regular jurors[,  
11 except that after]. AFTER final submission of the case, the court shall  
12 [discharge] SEPARATE the alternate jurors FROM THE REGULAR JURORS FOR  
13 DELIBERATIONS, BUT SHALL NOT DISCHARGE EITHER OR BOTH ALTERNATE JURORS  
14 UNTIL THE FINAL VERDICT IS DELIVERED. If[, before the final submission  
15 of the case,] a regular juror dies, or becomes ill, or for any other  
16 reason is unable to perform his OR HER duty[, the court may order him to  
17 be discharged and draw the name of an alternate, who shall replace the  
18 discharged juror in the jury box, and be treated as if he had been  
19 selected as one of the regular jurors] AS A REGULAR JUROR AND IF SUCH  
20 INABILITY OCCURS AFTER THE FINAL SUBMISSION OF THE CASE AND PRIOR TO THE  
21 DELIVERY OF THE VERDICT, THE COURT SHALL DRAW THE NAME OF AN ALTERNATE  
22 WHO SHALL REPLACE SAID REGULAR JUROR. IN THE EVENT THAT AN ALTERNATE  
23 JUROR REPLACES A REGULAR JUROR, THE COURT SHALL DIRECT THAT THE JURY  
24 COMMENCE DELIBERATIONS ANEW AS IF NO PRIOR DELIBERATIONS OCCURRED.  
25     S 2. This act shall take effect immediately.

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

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