

5004

2013-2014 Regular Sessions

I N   S E N A T E

May 3, 2013

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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 JUROR OR jurors shall be drawn at the same  
8     time, from the same source, in the same manner, and have the same quali-  
9     fications as [the] regular jurors, and be subject to the same examina-  
10    tions and challenges. They shall be seated with, take the oath with, and  
11    be treated in the same manner as the regular jurors[, except that  
12    after]. AFTER final submission of the case, the court [shall discharge  
13    the] MAY, IN ITS DISCRETION, RETAIN SUCH alternate JUROR OR jurors[. If]  
14    TO ENSURE AVAILABILITY IF NEEDED. AT ANY TIME, before OR AFTER the final  
15    submission of the case, IF a regular juror dies, or becomes ill, or [for  
16    any other reason] is unable to perform [his duty] THE DUTIES OF A JUROR,  
17    the court may order [him to be] THAT JUROR discharged and draw the name  
18    of an 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. ONCE DELIBERATIONS HAVE  
21    BEGUN, THE COURT MAY ALLOW AN ALTERNATE JUROR TO PARTICIPATE IN SUCH  
22    DELIBERATIONS ONLY IF A REGULAR JUROR BECOMES UNABLE TO PERFORM THE  
23    DUTIES OF A JUROR.

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

LBD09911-01-3

1     S 2. This act shall take effect on the first of January next succeed-  
2     ing the date on which it shall have become a law and shall apply to all  
3     actions commenced on or after such effective date and to all pending  
4     actions on such effective date in which a jury has not yet been  
5     selected.