

BILL TEXT:**STATE OF NEW YORK**

2798

2005-2006 Regular Sessions

IN ASSEMBLY

January 28, 2005

Introduced by M. of A. CYMBROWITZ -- read once and referred to the
Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to clari-
fying the need for expedited relief when seeking an order to show
cause

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Subdivision (d) of rule 2214 of the civil practice law and
2 rules, as amended by chapter 752 of the laws of 1972, is amended to read
3 as follows:

4 (d) Order to show cause. The court in a proper case may grant an order
5 to show cause, to be served in lieu of a notice of motion, at a time and
6 in a manner specified therein. The party seeking the order to show
7 cause shall state in the application why such expedited relief is neces-
8 sary. An order to show cause against a state body or officers must be
9 served in addition to service upon the defendant or respondent state
10 body or officers upon the attorney general by delivery to an assistant
11 attorney general at an office of the attorney general in the county in
12 which venue of the action is designated or if there is no office of the
13 attorney general in such county, at the office of the attorney general
14 nearest such county.

15 § 2. This act shall take effect on the first of January next succeed-
16 ing the date on which it shall have become a law.

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

LBD00910-01-5

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A2798

SPONSOR: Cymbrowitz

TITLE OF BILL: An act to amend the civil practice law and rules, in
relation to clarifying the need for expedited relief when seeking an

RETRIEVE BILL

order to show cause

PURPOSE OR GENERAL IDEA OF BILL:

This is one in a series of measures being introduced at the request of the Chief Administrative Judge upon the recommendation of his Advisory Committee on Civil Practice.

SUMMARY OF SPECIFIC PROVISIONS:

This measure would amend CPLR 2214(d) to require a party seeking an order to show cause clearly to specify why he or she is proceeding via an order to show cause, and not by another, less urgent, method.

JUSTIFICATION:

Practitioners have informed our Advisory Committee of their concern that some parties have applied for and been granted orders to show cause when expedited relief was not really needed. Even though the current statute states that "a court may grant an order to show cause IN A PROPER CASE" (emphasis added), the Committee felt that it would be desirable to modify the statute to require a showing of why expedited relief is necessary. To accomplish this end, it recommends the insertion of a new sentence after the first sentence of CPLR 2214(d), providing: "the party seeking the order to show cause shall state in the application why such expedited relief is necessary."

PRIOR LEGISLATIVE HISTORY:

1998 - A.11017 - referred to codes.
2000 - A.5291 - referred to codes.
2002 - A.2078 - referred to codes.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This measure would take effect on January first next succeeding the date on which it becomes law.
