

4594

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sen. SCHNEIDERMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act and the criminal procedure law, in relation to the duties of interpreters appointed by the courts in certain cases

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

1 Section 1. Section 153-c of the family court act is amended by adding
2 a new undesignated paragraph to read as follows:

3 WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE
4 PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRET-
5 ER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION
6 ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
7 ENFORCEABILITY OF THE ORDER.

8 S 2. Subdivision 1 of section 168 of the family court act, as amended
9 by chapter 416 of the laws of 1981, is amended to read as follows:

10 1. In any case in which an order of protection or temporary order of
11 protection has been made by the family court, the clerk of the court
12 shall issue a copy of such order to the petitioner and respondent and to
13 any other person affected by the order. WHERE AN INTERPRETER HAS BEEN
14 APPOINTED BY THE COURT TO ASSIST IN THE PROCEEDING BEFORE THE COURT, THE
15 COURT SHALL ALSO DIRECT SUCH INTERPRETER TO TRANSLATE INTO THE APPROPRI-
16 ATE LANGUAGE ANY ORDER OF PROTECTION ISSUED BY THE COURT. SUCH TRANS-
17 LATION SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF THE ORDER. The
18 presentation of a copy of an order of protection or temporary order of
19 protection or a warrant or a certificate of warrant to any peace offi-
20 cer, acting pursuant to his special duties, or police officer shall
21 constitute authority for him to arrest a person charged with violating
22 the terms of such order of protection or temporary order of protection
23 and bring such person before the court and, otherwise, so far as lies
24 within his power, to aid in securing the protection such order was

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

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1 intended to afford, provided, however, that any outstanding, unexpired
2 certificate of order of protection or temporary order of protection
3 shall have the same force and effect as a copy of such order or tempo-
4 rary order.

5 S 3. Section 331.5 of the family court act is amended by adding a new
6 subdivision 5 to read as follows:

7 5. WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN
8 THE PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTER-
9 PRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF
10 PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE
11 VALIDITY OR ENFORCEABILITY OF THE ORDER.

12 S 4. Subdivision 1 of section 352.3 of the family court act, as
13 amended by chapter 532 of the laws of 2008, is amended to read as
14 follows:

15 (1) Upon the issuance of an order pursuant to section 315.3 or the
16 entry of an order of disposition pursuant to section 352.2, a court may
17 enter an order of protection against any respondent for good cause
18 shown. WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST
19 IN THE PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH
20 INTERPRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF
21 PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE
22 VALIDITY OR ENFORCEABILITY OF THE ORDER. The order may require that the
23 respondent: (a) stay away from the home, school, business or place of
24 employment of the victims of the alleged offense; or (b) refrain from
25 harassing, intimidating, threatening or otherwise interfering with the
26 victim or victims of the alleged offense and such members of the family
27 or household of such victim or victims as shall be specifically named by
28 the court in such order; or (c) refrain from intentionally injuring or
29 killing, without justification, any companion animal the respondent
30 knows to be owned, possessed, leased, kept or held by the person
31 protected by the order or a minor child residing in such person's house-
32 hold. "Companion animal", as used in this subdivision, shall have the
33 same meaning as in subdivision five of section three hundred fifty of
34 the agriculture and markets law.

35 S 5. Section 430 of the family court act is amended by adding a new
36 subdivision (d) to read as follows:

37 (D) WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN
38 THE PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTER-
39 PRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF
40 PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE
41 VALIDITY OR ENFORCEABILITY OF THE ORDER.

42 S 6. Section 446 of the family court act is amended by adding a new
43 closing paragraph to read as follows:

44 WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE
45 PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRET-
46 ER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION
47 ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
48 ENFORCEABILITY OF THE ORDER.

49 S 7. Section 550 of the family court act is amended by adding a new
50 closing paragraph to read as follows:

51 WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE
52 PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRET-
53 ER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION
54 ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
55 ENFORCEABILITY OF THE ORDER.

1 S 8. Section 551 of the family court act is amended by adding a new
2 closing paragraph to read as follows:

3 WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE
4 PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRET-
5 ER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION
6 ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
7 ENFORCEABILITY OF THE ORDER.

8 S 9. Section 655 of the family court act is amended by adding a new
9 closing paragraph to read as follows:

10 WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE
11 PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRET-
12 ER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION
13 ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
14 ENFORCEABILITY OF THE ORDER.

15 S 10. Section 656 of the family court act is amended by adding a new
16 closing paragraph to read as follows:

17 WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE
18 PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRET-
19 ER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION
20 ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
21 ENFORCEABILITY OF THE ORDER.

22 S 11. Subdivision (a) of section 740 of the family court act, as
23 amended by chapter 416 of the laws of 1981, is amended to read as
24 follows:

25 (a) Upon the filing of a petition under this article, the court for
26 good cause shown may issue a temporary order of protection which may
27 contain any of the provisions authorized on the making of an order of
28 protection under section seven hundred fifty-nine. WHERE AN INTERPRETER
29 HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE PROCEEDING BEFORE THE
30 COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRETER TO TRANSLATE INTO
31 THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION ISSUED BY THE COURT.
32 SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF THE
33 ORDER.

34 S 12. Section 759 of the family court act is amended by adding a new
35 closing paragraph to read as follows:

36 WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE
37 PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRET-
38 ER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION
39 ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
40 ENFORCEABILITY OF THE ORDER.

41 S 13. Section 780 of the family court act is amended by adding a new
42 undesignated paragraph to read as follows:

43 WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE
44 PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRET-
45 ER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION
46 ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
47 ENFORCEABILITY OF THE ORDER.

48 S 14. Subdivision 1 of section 828 of the family court act is amended
49 by adding a new paragraph (c) to read as follows:

50 (C) WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN
51 THE PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTER-
52 PRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF
53 PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE
54 VALIDITY OR ENFORCEABILITY OF THE ORDER.

1 S 15. The opening paragraph of section 842 of the family court act, as
2 amended by chapter 579 of the laws of 2003, is amended to read as
3 follows:

4 An order of protection under section eight hundred forty-one of this
5 part shall set forth reasonable conditions of behavior to be observed
6 for a period not in excess of two years by the petitioner or respondent
7 or for a period not in excess of five years upon (i) a finding by the
8 court on the record of the existence of aggravating circumstances as
9 defined in paragraph (vii) of subdivision (a) of section eight hundred
10 twenty-seven of this article; or (ii) a finding by the court on the
11 record that the conduct alleged in the petition is in violation of a
12 valid order of protection. Any finding of aggravating circumstances
13 pursuant to this section shall be stated on the record and upon the
14 order of protection. Any order of protection issued pursuant to this
15 section shall specify if an order of probation is in effect. [Any] WHERE
16 AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE PROCEED-
17 ING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRETER TO
18 TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION ISSUED
19 BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR
20 ENFORCEABILITY OF THE ORDER. AN order of protection issued pursuant to
21 this section may require the petitioner or the respondent:

22 S 16. Section 1023 of the family court act, as amended by chapter 170
23 of the laws of 1990, is amended to read as follows:

24 S 1023. Procedure for issuance of temporary order. Any person who may
25 originate a proceeding under this article may apply for, or the court on
26 its own motion may issue, an order of temporary removal under section
27 one thousand twenty-two or one thousand twenty-seven or an order for the
28 provision of services or assistance, including emergency medical or
29 surgical procedures pursuant to subdivision (c) of section one thousand
30 twenty-two, or a temporary order of protection pursuant to section [ten
31 hundred] ONE THOUSAND twenty-nine. WHERE AN INTERPRETER HAS BEEN
32 APPOINTED BY THE COURT TO ASSIST IN THE PROCEEDING BEFORE THE COURT, THE
33 COURT SHALL ALSO DIRECT SUCH INTERPRETER TO TRANSLATE INTO THE APPROPRI-
34 ATE LANGUAGE ANY ORDER OF PROTECTION ISSUED BY THE COURT. SUCH TRANS-
35 LATION SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF THE ORDER. The
36 applicant or, where designated by the court, any other appropriate
37 person, shall make every reasonable effort, with due regard for any
38 necessity for immediate protective action, to inform the parent or other
39 person legally responsible for the child's care of the intent to apply
40 for the order, of the date and the time that the application will be
41 made, the address of the court where the application will be made, of
42 the right of the parent or other person legally responsible for the
43 child's care to be present at the application and at any hearing held
44 thereon and, of the right to be represented by counsel, including proce-
45 dures for obtaining counsel, if indigent.

46 S 17. Subdivision (a) of section 1029 of the family court act, as
47 amended by chapter 673 of the laws of 1988, is amended to read as
48 follows:

49 (a) The family court, upon the application of any person who may orig-
50 inate a proceeding under this article, for good cause shown, may issue a
51 temporary order of protection, before or after the filing of such peti-
52 tion, which may contain any of the provisions authorized on the making
53 of an order of protection under section [ten hundred] ONE THOUSAND
54 fifty-six OF THIS ARTICLE. WHERE AN INTERPRETER HAS BEEN APPOINTED BY
55 THE COURT TO ASSIST IN THE PROCEEDING BEFORE THE COURT, THE COURT SHALL
56 ALSO DIRECT THE INTERPRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE

1 ANY ORDER OF PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT
2 AFFECT THE VALIDITY OR ENFORCEABILITY OF THE ORDER. If such order is
3 granted before the filing of a petition and a petition is not filed
4 under this article within ten days from the granting of such order, the
5 order shall be vacated. In any case where a petition has been filed and
6 a law guardian appointed, such law guardian may make application for a
7 temporary order of protection pursuant to the provisions of this
8 section.

9 S 18. The opening paragraph of subdivision 1 of section 1056 of the
10 family court act, as amended by chapter 622 of the laws of 1990, is
11 amended to read as follows:

12 The court may make an order of protection in assistance or as a condi-
13 tion of any other order made under this part. Such order of protection
14 shall remain in effect concurrently with, shall expire no later than the
15 expiration date of, and may be extended concurrently with, such other
16 order made under this part, except as provided in subdivision four of
17 this section. WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO
18 ASSIST IN THE PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT
19 SUCH INTERPRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF
20 PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE
21 VALIDITY OR ENFORCEABILITY OF THE ORDER. The order of protection may set
22 forth reasonable conditions of behavior to be observed for a specified
23 time by a person who is before the court and is a parent or a person
24 legally responsible for the child's care or the spouse of the parent or
25 other person legally responsible for the child's care, or both. Such an
26 order may require any such person

27 S 19. Section 530.12 of the criminal procedure law is amended by
28 adding a new subdivision 1-a to read as follows:

29 1-A. WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN
30 THE PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTER-
31 PRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF
32 PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE
33 VALIDITY OR ENFORCEABILITY OF THE ORDER.

34 S 20. Section 530.13 of the criminal procedure law is amended by
35 adding a new subdivision 1-a to read as follows:

36 1-A. WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN
37 THE PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH
38 INTERPRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF
39 PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE
40 VALIDITY OR ENFORCEABILITY OF THE ORDER.

41 S 21. This act shall take effect on the ninetieth day after it shall
42 have become a law and shall apply to orders of protection issued on or
43 after such effective date.