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

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:

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

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

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

1. In any case in which an order of protection or temporary order of protection has been made by the family court, the clerk of the court shall issue a copy of such order to the petitioner and respondent and to any other person affected by the order. *WHERE AN INTERPRETER HAS BEEN APPOINTED BY THE COURT TO ASSIST IN THE PROCEEDING BEFORE THE COURT, THE COURT SHALL ALSO DIRECT SUCH INTERPRETER TO TRANSLATE INTO THE APPROPRIATE LANGUAGE ANY ORDER OF PROTECTION ISSUED BY THE COURT. SUCH TRANSLATION SHALL NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF THE ORDER.* The presentation of a copy of an order of protection or temporary order of protection or a warrant or a certificate of warrant to any peace officer, acting pursuant to his special duties, or police officer shall constitute authority for him to arrest a person charged with violating the terms of such order of protection or temporary order of protection and bring such person before the court and, otherwise, so far as lies 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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intended to afford, provided, however, that any outstanding, unexpired certificate of order of protection or temporary order of protection shall have the same force and effect as a copy of such order or temporary order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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