

STATE OF NEW YORK

5051

2017-2018 Regular Sessions

IN SENATE

March 6, 2017

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

AN ACT to amend the judiciary law, the domestic relations law, the family court act and the criminal procedure law, in relation to translation services for certain orders by courts of competent jurisdiction

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

1 Section 1. Paragraph (t) of subdivision 2 of section 212 of the judiciary law, as added by chapter 237 of the laws of 2015, is relettered 2 paragraph (u).

3 § 2. Paragraph (t) of subdivision 2 of section 212 of the judiciary 4 law, as added by chapter 367 of the laws of 2015, is relettered para- 5 graph (v) and a new paragraph (t) is added to read as follows:

6 (t) Make available translation services to all family, supreme and
7 criminal courts to assist in the translation of orders of protection and
8 temporary orders of protection, as provided in this paragraph, where the
9 person protected by and/or the person subject to the order of protection
10 has limited English proficiency or has a limited ability to read English
11 including as a result of a visual impairment or other disability:

12 (i) Translation services shall be made available to all family,
13 supreme and criminal courts of competent jurisdiction in the ten most
14 frequently used languages in the state, as well as audio translation for
15 persons with limited ability to read English including those with visual
16 impairments or other disabilities, and any additional languages that the
17 chief administrator of the courts deems appropriate;

18 (ii) Translations of family offense orders of protection and temporary
19 orders of protection under this paragraph shall be available to any
20 person protected by and any person subject to the order, if they have
21 limited English proficiency or have a limited ability to read English
22 including as a result of a visual impairment or other disability;

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

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1 (iii) Translation of, or the inability to translate an order shall not
2 affect the validity or enforceability of the order; and

3 (iv) The authority provided by this paragraph shall be in addition to,
4 and shall not be deemed to diminish or reduce any rights of the parties
5 under existing law.

6 § 3. Subdivision 3 of section 240 of the domestic relations law is
7 amended by adding a new paragraph a-1 to read as follows:

8 a-1. Translation and interpretation of orders of protection. (1) The
9 court shall provide translation services of an order of protection or
10 temporary order of protection, in accordance with paragraph (t) of
11 subdivision two of section two hundred twelve of the judiciary law, to
12 any person protected by and any person subject to the order of
13 protection who has limited English proficiency or has limited ability to
14 read English including as a result of a visual impairment or other dis-
15 ability.

16 (2) Upon issuance of a temporary or permanent order of protection, the
17 court shall inquire into the need for a translated order of protection
18 and advise both the person protected by and the person subject to the
19 order of protection of the availability of such translated orders.

20 (3) Where an interpreter has been appointed by a court of competent
21 jurisdiction to assist in the proceeding before the court, the court
22 shall direct such interpreter to interpret into the appropriate language
23 on the record, while the interpreter is present in court, the essential
24 terms and conditions of any order of protection or temporary order of
25 protection issued by the court that the court shall clearly outline and
26 read into the record. Such interpretation shall not affect the validity
27 or enforceability of the order.

28 (4) Where an assistive listening device, stenographer or any other
29 appropriate auxiliary aid or service has been provided pursuant to the
30 provisions of section three hundred ninety of the judiciary law to
31 assist in the proceeding before the court, the court shall also direct
32 the provision of such appropriate auxiliary aid or service to translate
33 the essential terms and conditions of any order of protection or tempo-
34 rary order of protection issued by the court that the court shall clear-
35 ly outline and read into the record. Such interpretation shall not
36 affect the validity or enforceability of the order.

37 (5) Translation or interpretation of, or the inability to translate or
38 interpret an order shall not affect the validity or enforceability of
39 the order.

40 (6) The authority provided by this paragraph shall be in addition to,
41 and shall not be deemed to diminish or reduce any rights of the parties
42 under existing law.

43 § 4. Section 252 of the domestic relations law is amended by adding a
44 new subdivision 1-a to read as follows:

45 1-a. Translation and interpretation of orders of protection. (a) The
46 court shall provide translation services of an order of protection or
47 temporary order of protection, in accordance with paragraph (t) of
48 subdivision two of section two hundred twelve of the judiciary law, to
49 any person protected by and any person subject to the order of
50 protection who has limited English proficiency or has a limited ability
51 to read English including as a result of a visual impairment or other
52 disability.

53 (b) Upon issuance of a temporary or permanent order of protection, the
54 court shall inquire into the need for a translated order of protection
55 and advise both the person protected by and the person subject to the
56 order of protection of the availability of such translated orders.

1 Translation of, or the inability to translate an order shall not affect
2 the validity or enforceability of the order.

3 (c) Where an interpreter has been appointed by a court of competent
4 jurisdiction to assist in the proceeding before the court, the court
5 shall direct such interpreter to interpret into the appropriate language
6 on the record, while the interpreter is present in court, the essential
7 terms and conditions of any order of protection or temporary order of
8 protection issued by the court that the court shall clearly outline and
9 read into the record. Such interpretation shall not affect the validity
10 or enforceability of the order.

11 (d) Where an assistive listening device, stenographer or any other
12 appropriate auxiliary aid or service has been provided pursuant to the
13 provisions of section three hundred ninety of the judiciary law to
14 assist in the proceeding before the court, the court shall also direct
15 the provision of such appropriate auxiliary aid or service to translate
16 the essential terms and conditions of any order of protection or tempo-
17 rary order of protection issued by the court that the court shall clear-
18 ly outline and read into the record. Such interpretation shall not
19 affect the validity or enforceability of the order.

20 (e) Translation or interpretation of, or the inability to translate or
21 interpret an order shall not affect the validity or enforceability of
22 the order.

23 (f) The authority provided by this subdivision shall be in addition
24 to, and shall not be deemed to diminish or reduce any rights of the
25 parties under existing law.

26 § 5. Section 154-c of the family court act is amended by adding a new
27 subdivision 4 to read as follows:

28 4. Translation and interpretation of orders of protection. (a) The
29 court shall provide translation services of an order of protection or
30 temporary order of protection, in accordance with paragraph (t) of
31 subdivision two of section two hundred twelve of the judiciary law, to
32 any person protected by and any person subject to the order of
33 protection who has limited English proficiency or has a limited ability
34 to read English including as a result of a visual impairment or other
35 disability.

36 (b) Upon issuance of a temporary or permanent order of protection, the
37 court shall inquire into the need for a translated order of protection
38 and advise both the person protected by and the person subject to the
39 order of protection of the availability of such translated orders.
40 Translation of, or the inability to translate an order shall not affect
41 the validity or enforceability of the order.

42 (c) Where an interpreter has been appointed by a court of competent
43 jurisdiction to assist in the proceeding before the court, the court
44 shall direct such interpreter to interpret into the appropriate language
45 on the record, while the interpreter is present in court, the essential
46 terms and conditions of any order of protection or temporary order of
47 protection issued by the court that the court shall clearly outline and
48 read into the record. Such interpretation shall not affect the validity
49 or enforceability of the order.

50 (d) Where an assistive listening device, stenographer or any other
51 appropriate auxiliary aid or service has been provided pursuant to the
52 provisions of section three hundred ninety of the judiciary law to
53 assist in the proceeding before the court, the court shall also direct
54 the provision of such appropriate auxiliary aid or service to translate
55 the essential terms and conditions of any order of protection or tempo-
56 rary order of protection issued by the court that the court shall clear-

1 ly outline and read into the record. Such interpretation shall not
2 affect the validity or enforceability of the order.

3 (e) Translation or interpretation of, or the inability to translate or
4 interpret an order shall not affect the validity or enforceability of
5 the order.

6 (f) The authority provided by this subdivision shall be in addition
7 to, and shall not be deemed to diminish or reduce any rights of the
8 parties under existing law.

9 § 6. The family court act is amended by adding a new section 169 to
10 read as follows:

11 **§ 169. Translation and interpretation of orders of protection.** 1. The
12 court shall provide translation services of an order of protection or
13 temporary order of protection, in accordance with paragraph (t) of
14 subdivision two of section two hundred twelve of the judiciary law, to
15 any person protected by and any person subject to the order of
16 protection who has limited English proficiency or has limited ability to
17 read English including as a result of a visual impairment or other disa-
18 bility.

19 2. Upon issuance of a temporary or permanent order of protection, the
20 court shall inquire into the need for a translated order of protection
21 and advise both the person protected by and the person subject to the
22 order of protection of the availability of such translated orders.

23 3. Where an interpreter has been appointed by a court of competent
24 jurisdiction to assist in the proceeding before the court, the court
25 shall direct such interpreter to interpret into the appropriate language
26 on the record, while the interpreter is present in court, the essential
27 terms and conditions of any order of protection or temporary order of
28 protection issued by the court that the court shall clearly outline and
29 read into the record. Such interpretation shall not affect the validity
30 or enforceability of the order.

31 4. Where an assistive listening device, stenographer or any other
32 appropriate auxiliary aid or service has been provided pursuant to the
33 provisions of section three hundred ninety of the judiciary law to
34 assist in the proceeding before the court, the court shall also direct
35 the provision of such appropriate auxiliary aid or service to translate
36 the essential terms and conditions of any order of protection or tempo-
37 rary order of protection issued by the court that the court shall clear-
38 ly outline and read into the record. Such interpretation shall not
39 affect the validity or enforceability of the order.

40 5. Translation or interpretation of, or the inability to translate or
41 interpret an order shall not affect the validity or enforceability of
42 the order.

43 6. The authority provided by this section shall be in addition to, and
44 shall not be deemed to diminish or reduce any rights of the parties
45 under existing law.

46 § 7. Section 530.12 of the criminal procedure law is amended by adding
47 a new subdivision 16 to read as follows:

48 **16. Translation and interpretation of orders of protection.** (a) The
49 court shall provide translation services of an order of protection or
50 temporary order of protection, in accordance with paragraph (t) of
51 subdivision two of section two hundred twelve of the judiciary law, to
52 any person protected by and any person subject to the order of
53 protection who has limited English proficiency or has a limited ability
54 to read English including as a result of a visual impairment or other
55 disability.

1 (b) Upon issuance of a temporary or permanent order of protection, the
2 court shall inquire into the need for a translated order of protection
3 and advise both the person protected by and the person subject to the
4 order of protection of the availability of such translated orders.
5 Translation of, or the inability to translate an order shall not affect
6 the validity or enforceability of the order.

7 (c) Where an interpreter has been appointed by a court of competent
8 jurisdiction to assist in the proceeding before the court, the court
9 shall direct such interpreter to interpret into the appropriate language
10 on the record, while the interpreter is present in court, the essential
11 terms and conditions of any order of protection or temporary order of
12 protection issued by the court that the court shall clearly outline and
13 read into the record. Such interpretation shall not affect the validity
14 or enforceability of the order.

15 (d) Where an assistive listening device, stenographer or any other
16 appropriate auxiliary aid or service has been provided pursuant to the
17 provisions of section three hundred ninety of the judiciary law to
18 assist in the proceeding before the court, the court shall also direct
19 the provision of such appropriate auxiliary aid or service to translate
20 the essential terms and conditions of any order of protection or tempo-
21 rary order of protection issued by the court that the court shall clear-
22 ly outline and read into the record. Such interpretation shall not
23 affect the validity or enforceability of the order.

24 (e) Translation or interpretation of, or the inability to translate or
25 interpret an order shall not affect the validity or enforceability of
26 the order.

27 (f) The authority provided by this subdivision shall be in addition
28 to, and shall not be deemed to diminish or reduce any rights of the
29 parties under existing law.

30 § 8. Section 530.13 of the criminal procedure law is amended by adding
31 a new subdivision 10 to read as follows:

32 10. Translation and interpretation of orders of protection. (a) The
33 court shall provide translation services of an order of protection or
34 temporary order of protection, in accordance with paragraph (t) of
35 subdivision two of section two hundred twelve of the judiciary law, to
36 any person protected by and any person subject to the order of
37 protection who has limited English proficiency or has a limited ability
38 to read English including as a result of a visual impairment or other
39 disability.

40 (b) Upon issuance of a temporary or permanent order of protection, the
41 court shall inquire into the need for a translated order of protection
42 and advise both the person protected by and the person subject to the
43 order of protection of the availability of such translated orders.
44 Translation of, or the inability to translate an order shall not affect
45 the validity or enforceability of the order.

46 (c) Where an interpreter has been appointed by a court of competent
47 jurisdiction to assist in the proceeding before the court, the court
48 shall direct such interpreter to interpret into the appropriate language
49 on the record, while the interpreter is present in court, the essential
50 terms and conditions of any order of protection or temporary order of
51 protection issued by the court that the court shall clearly outline and
52 read into the record. Such interpretation shall not affect the validity
53 or enforceability of the order.

54 (d) Where an assistive listening device, stenographer or any other
55 appropriate auxiliary aid or service has been provided pursuant to the
56 provisions of section three hundred ninety of the judiciary law to

1 assist in the proceeding before the court, the court shall also direct
2 the provision of such appropriate auxiliary aid or service to translate
3 the essential terms and conditions of any order of protection or tempo-
4 rary order of protection issued by the court that the court shall clear-
5 ly outline and read into the record. Such interpretation shall not
6 affect the validity or enforceability of the order.

7 (e) Translation or interpretation of, or the inability to translate or
8 interpret an order shall not affect the validity or enforceability of
9 the order.

10 (f) The authority provided by this subdivision shall be in addition
11 to, and shall not be deemed to diminish or reduce any rights of the
12 parties under existing law.

13 § 9. The chief administrator of the courts may promulgate rules and
14 regulations in order to effectuate the provisions of this act.

15 § 10. This act shall take effect on the ninetieth day after it shall
16 have become a law and shall apply to orders of protection issued on or
17 after such date.