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:

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 paragraph (u).

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

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

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

(ii) Translations of family offense orders of protection and temporary orders of protection under this paragraph shall be available to any person protected by and any person subject to the order, if they have limited English proficiency or have a limited ability to read English 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.

LBD03049-03-7

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

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

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

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

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

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

(4) Where an assistive listening device, stenographer or any other appropriate auxiliary aid or service has been provided pursuant to the provisions of section three hundred ninety of the judiciary law to assist in the proceeding before the court, the court shall also direct the provision of such appropriate auxiliary aid or service to translate the essential terms and conditions of any order of protection or temporary order of protection issued by the court that the court shall clearly outline and read into the record. Such interpretation shall not affect the validity or enforceability of the order.

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

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

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

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

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

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

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

(d) Where an assistive listening device, stenographer or any other appropriate auxiliary aid or service has been provided pursuant to the provisions of section three hundred ninety of the judiciary law to assist in the proceeding before the court, the court shall also direct the provision of such appropriate auxiliary aid or service to translate the essential terms and conditions of any order of protection or temporary order of protection issued by the court that the court shall clearly outline and read into the record. Such interpretation shall not affect the validity or enforceability of the order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Where an assistive listening device, stenographer or any other appropriate auxiliary aid or service has been provided pursuant to the provisions of section three hundred ninety of the judiciary law to assist in the proceeding before the court, the court shall also direct the provision of such appropriate auxiliary aid or service to translate the essential terms and conditions of any order of protection or temporary order of protection issued by the court that the court shall clearly outline and read into the record. Such interpretation shall not affect the validity or enforceability of the order.

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

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

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

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

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

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

(d) Where an assistive listening device, stenographer or any other appropriate auxiliary aid or service has been provided pursuant to the provisions of section three hundred ninety of the judiciary law to assist in the proceeding before the court, the court shall also direct the provision of such appropriate auxiliary aid or service to translate the essential terms and conditions of any order of protection or temporary order of protection issued by the court that the court shall clearly outline and read into the record. Such interpretation shall not affect the validity or enforceability of the order.

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

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

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

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

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

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

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

assist in the proceeding before the court, the court shall also direct the provision of such appropriate auxiliary aid or service to translate the essential terms and conditions of any order of protection or temporary order of protection issued by the court that the court shall clearly outline and read into the record. Such interpretation shall not affect the validity or enforceability of the order.

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

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

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

§ 10. 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 date.