

# STATE OF NEW YORK

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790--B

Cal. No. 424

2017-2018 Regular Sessions

## IN SENATE

January 4, 2017

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Introduced by Sens. ALCANTARA, HAMILTON, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the judiciary law, the family court act, the domestic relations law and the criminal procedure law, in relation to the translation of orders of protection and temporary orders of protection

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 judi-  
2 ciary law, as added by chapter 237 of the laws of 2015, is relettered  
3 paragraph (u).

4 § 2. Paragraph (t) of subdivision 2 of section 212 of the judiciary  
5 law, as added by chapter 367 of the laws of 2015, is relettered para-  
6 graph (v) and two new paragraphs (t) and (t-1) are added to read as  
7 follows:

8 (t) Make available translation services to all family and supreme  
9 courts to assist in the translation of orders of protection and tempo-  
10 rary orders of protection, as provided in this paragraph, where the  
11 person protected by and/or the person subject to the order of protection  
12 has limited English proficiency or has a limited ability to read  
13 English:

14 (i) Translation services shall be made available to all family and  
15 supreme courts in the ten languages most frequently used in the courts  
16 of each judicial department in accordance with the schedule in subpara-  
17 graph (ii) of this paragraph, and any additional languages that the  
18 chief administrator of the courts deems appropriate;

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

LBD00008-04-7

1 (ii) (A) In three languages from among the ten most frequently used in  
2 the courts of each judicial department, by January first, two thousand  
3 eighteen;

4 (B) In three additional languages from among the ten most frequently  
5 used in the courts of each judicial department, by June thirtieth, two  
6 thousand nineteen; and

7 (C) In four additional languages from among the ten most frequently  
8 used in the courts of each judicial department, by December thirty-  
9 first, two thousand twenty; and

10 (iii) Upon issuance of an order of protection or temporary order of  
11 protection, the court shall inquire of any person who is protected by it  
12 or subject to it, who has made an appearance, whether translation  
13 services are needed. The court shall advise the party or parties of the  
14 availability of such translation services;

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

18 (t-1) Issue reports concerning the availability of translation  
19 services where orders of protection and temporary orders of protection  
20 are issued; special pilot programs. (i) The chief administrator of the  
21 courts shall submit to the legislature, the governor, and the chief  
22 judge of the state the following reports:

23 (A) Not later than April first, two thousand nineteen, a report on the  
24 availability and use of translation services in the courts for orders of  
25 protection and temporary orders of protection, including but not limited  
26 to the languages for which written and oral translation is provided; the  
27 number of parties that received translated documents, broken down by  
28 language and judicial department; the number of parties receiving inter-  
29 pretation, broken down by language and judicial department; the number  
30 of people who requested a translated document and did not receive it;  
31 and the number of cases in which a court interpreter was used to commu-  
32 nicate with either party and an order of protection or temporary order  
33 of protection was issued but in which a translated document was not  
34 provided to either party. Such report shall contain recommendations for  
35 further legislation relating to the availability of such translation  
36 services as the chief administrator of the courts shall deem appropri-  
37 ate; and

38 (B) Not later than April first, two thousand eighteen, a report evalu-  
39 ating the technical and operational issues involved in subjecting the  
40 following orders of protection and temporary orders of protection to the  
41 same requirements, relative to translation and interpretation of such  
42 orders, as are applicable to orders of protection and temporary orders  
43 of protection issued under section one hundred sixty-nine of the family  
44 court act: (I) orders of protection and temporary orders of protection  
45 issued under section 530.12 or 530.13 of the criminal procedure law; and  
46 (II) orders of protection and temporary orders of protection issued by a  
47 town or village justice court.

48 (ii) The office of court administration shall establish and oversee  
49 two pilot programs, as follows:

50 (A) In one town or village court within each judicial district, to  
51 develop best practices for the use of written translation and interpre-  
52 tation services for orders of protection and temporary orders of  
53 protection in the justice courts. Following consultation with the state  
54 magistrates association, the conference of mayors, the association of  
55 towns, the unified court system's advisory committee on language access,  
56 and such other parties as may be interested, the chief administrator

1 shall include an analysis and evaluation of this pilot program, together  
2 with a plan for its expansion throughout the justice court system, in  
3 the report required pursuant to clause (B) of subparagraph (i) of this  
4 paragraph.

5 (B) In one county in the city of New York and two counties outside  
6 such city, to develop best practices for the use of written translation  
7 and interpretation services for orders of protection and temporary  
8 orders of protection issued in the state-paid criminal courts of such  
9 counties. Following consultation with the state district attorneys asso-  
10 ciation, representatives of the criminal defense bar, representatives of  
11 domestic violence prevention legal services providers, the unified court  
12 system's advisory committee on language access, and such other parties  
13 as may be interested, the chief administrator shall include an analysis  
14 and evaluation of this pilot program, together with a plan for its  
15 expansion throughout the state, in the report required pursuant to  
16 clause (B) of subparagraph (i) of this paragraph.

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

19 § 169. Translation and interpretation of orders of protection. The  
20 office of court administration shall, in accordance with paragraph (t)  
21 of subdivision two of section two hundred twelve of the judiciary law,  
22 ensure that a court order of protection and temporary order of  
23 protection issued by the court under article three, four, five, six,  
24 seven, eight or ten of this act, is translated in writing into the  
25 appropriate language for a party to a proceeding where the court has  
26 appointed an interpreter. The office of court administration shall  
27 ensure that the standard language of the office of court administration  
28 order of protection and temporary order of protection forms shall be  
29 translated in writing in the languages most frequently used in the  
30 courts of each judicial department in accordance with paragraph (t) of  
31 subdivision two of section two hundred twelve of the judiciary law. A  
32 copy of the written translation shall be given to each party in the  
33 proceeding, along with the original order or temporary order of  
34 protection issued in English. A copy of this written translation shall  
35 also be included as part of the record of the proceeding. The court  
36 shall read the essential terms and conditions of the order aloud on the  
37 record and direct the court appointed interpreter to interpret the same  
38 terms and conditions. Such written translation or interpretation shall  
39 not affect the validity or enforceability of the order. In every case a  
40 party to a proceeding shall be provided with an English copy of any  
41 court order of protection or temporary order of protection issued. The  
42 authority provided herein shall be in addition to and shall not be  
43 deemed to diminish or reduce any rights of the parties under existing  
44 law.

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

47 a-1. Translation and interpretation of orders of protection. The  
48 office of court administration shall, in accordance with paragraph (t)  
49 of subdivision two of section two hundred twelve of the judiciary law,  
50 ensure that a court order of protection and temporary order of  
51 protection is translated in writing into the appropriate language for a  
52 party to a proceeding where the court has appointed an interpreter. The  
53 office of court administration shall ensure that the standard language  
54 of the office of court administration order of protection and temporary  
55 order of protection forms shall be translated in writing in the  
56 languages most frequently used in the courts of each judicial department

1 in accordance with paragraph (t) of subdivision two of section two  
2 hundred twelve of the judiciary law. A copy of the written translation  
3 shall be given to each party in the proceeding, along with the original  
4 order or temporary order of protection issued in English. A copy of  
5 this written translation shall also be included as part of the record of  
6 the proceeding. The court shall read the essential terms and conditions  
7 of the order aloud on the record and direct the court appointed inter-  
8 preter to interpret the same terms and conditions. Such written trans-  
9 lation or interpretation shall not affect the validity or enforceability  
10 of the order. In every case a party to a proceeding shall be provided  
11 with an English copy of any court order of protection or temporary order  
12 of protection issued. The authority provided herein shall be in addition  
13 to and shall not be deemed to diminish or reduce any rights of the  
14 parties under existing law.

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

17 1-a. Translation and interpretation of orders of protection. The  
18 office of court administration shall, in accordance with paragraph (t)  
19 of subdivision two of section two hundred twelve of the judiciary law,  
20 ensure that a court order of protection or temporary order of protection  
21 is translated in writing into the appropriate language for a party to a  
22 proceeding where the court has appointed an interpreter. The office of  
23 court administration shall ensure that the standard language of the  
24 office of court administration order of protection and temporary order  
25 of protection forms shall be translated in writing in the languages most  
26 frequently used in the courts of each judicial department in accordance  
27 with paragraph (t) of subdivision two of section two hundred twelve of  
28 the judiciary law. A copy of the written translation shall be given to  
29 each party in the proceeding, along with the original order or temporary  
30 order of protection issued in English. A copy of this written trans-  
31 lation shall also be included as part of the record of the proceeding.  
32 The court shall read the essential terms and conditions of the order  
33 aloud on the record and direct the court appointed interpreter to inter-  
34 pret the same terms and conditions. Such written translation or inter-  
35 pretation shall not affect the validity or enforceability of the order.  
36 In every case a party to a proceeding shall be provided with an English  
37 copy of any court order of protection or temporary order of protection  
38 issued. The authority provided herein shall be in addition to and shall  
39 not be deemed to diminish or reduce any rights of the parties under  
40 existing law.

41 § 6. The closing paragraph of subparagraph 2 of paragraph (ii) of  
42 subdivision (b) of section 214 of the family court act, as added by  
43 chapter 237 of the laws of 2015, is amended to read as follows:

44 Notwithstanding the foregoing, the chief administrator may not elimi-  
45 nate the requirement of consent to participation in a county hereunder  
46 until he or she shall have provided all persons or organizations, or  
47 their representative or representatives, who regularly appear in  
48 proceedings in the family court of such county, in which proceedings the  
49 requirement of consent is to be eliminated, with reasonable notice and  
50 an opportunity to submit comments with respect thereto and shall have  
51 given due consideration to all such comments, nor until he or she shall  
52 have consulted with the members of the advisory committee continued  
53 pursuant to subparagraph (vi) of paragraph [~~(t)~~] (u) of subdivision two  
54 of section two hundred twelve of the judiciary law.

1     § 7. Subparagraph (ii) of paragraph (b) of subdivision 2 of section  
2 10.40 of the criminal procedure law, as added by chapter 237 of the laws  
3 of 2015, is amended to read as follows:

4     (ii) The chief administrator may eliminate the requirement of consent  
5 to participation in this program in supreme and county courts of not  
6 more than six counties provided he or she may not eliminate such  
7 requirement for a court without the consent of the district attorney,  
8 the consent of the criminal defense bar as defined in subdivision three  
9 of this section and the consent of the county clerk of the county in  
10 which such court presides.

11     Notwithstanding the foregoing provisions of this subparagraph, the  
12 chief administrator shall not eliminate the requirement of consent to  
13 participation in a county hereunder until he or she shall have provided  
14 all persons and organizations, or their representative or represen-  
15 tatives, who regularly appear in criminal actions or proceedings in the  
16 superior court of such county with reasonable notice and opportunity to  
17 submit comments with respect thereto and shall have given due consider-  
18 ation to all such comments, nor until he or she shall have consulted  
19 with the members of the advisory committee specified in subparagraph (v)  
20 of paragraph ~~(+t+)~~ (u) of subdivision two of section two hundred twelve  
21 of the judiciary law.

22     § 8. The chief administrator of the courts may promulgate rules and  
23 regulations in order to effectuate the provisions of this act, and, to  
24 the extent necessary and appropriate, exercise his or her authority  
25 pursuant to paragraph (1) of subdivision 1 of section 212 of the judici-  
26 ary law to the same end.

27     § 9. This act shall take effect on the ninetieth day after it shall  
28 have become a law and shall apply to orders of protection issued on or  
29 after such effective date; provided that the amendments to section 214  
30 of the family court act, made by section six of this act, shall not  
31 affect the expiration and reversion of such section, and shall expire  
32 therewith; provided, further, that the amendments to subparagraph (ii)  
33 of paragraph (b) of subdivision 2 of section 10.40 of the criminal  
34 procedure law made by section seven of this act, shall not affect the  
35 expiration and reversion of such section, and shall expire therewith.