STATE OF NEW YORK

6857

2021-2022 Regular Sessions

IN SENATE

May 19, 2021

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

AN ACT to amend the criminal procedure law, in relation to requiring accurate interpretation of statements made by deponents with limited English proficiency in accusatory instruments and supporting depositions

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

Section 1. Section 100.40 of the criminal procedure law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding any provision of law to the contrary, where the factual allegations of an accusatory instrument and/or any supporting deposition filed in connection with such instrument consist of a statement made by a deponent to a public servant or other person in a language other than English, such instrument shall not be sufficient unless it is accompanied by:

(a) (i) A statement of the factual allegations written in the deponent's primary language and a signed verification under penalty of perjury in the deponent's primary language; (ii) an English-language translation of the deponent's statement and of the verification written by an interpreter; and (iii) an affidavit by the interpreter stating the interpreter's qualifications and affirming the accuracy of such translation; or

(b) (i) A written English-language translation of the deponent's oral or written statement of the factual allegations, drafted by an interpreter; and (ii) an affidavit from the interpreter: (A) stating the interpreter's qualifications; (B) affirming that the interpreter accurately translated such statement into English; (C) affirming that the interpreter accurately communicated the content of the statement to the deponent in the deponent's primary language; (D) affirming that the deponent confirmed the accuracy of the allegations as communicated; and

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

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(E) affirming that the interpreter accurately translated the verification statement to the witness in the witness's primary language.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.