

# STATE OF NEW YORK

9122

## IN ASSEMBLY

February 7, 2024

Introduced by M. of A. CRUZ, DE LOS SANTOS, SIMONE, KELLES, SIMON, RAGA, TAYLOR, SEAWRIGHT, LEVENBERG, OTIS, WALKER, DAVILA, GLICK, ZACCARO, ZINERMAN, L. ROSENTHAL -- read once and referred 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:

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

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

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

16 (b) (i) A written English-language translation of the deponent's oral  
17 or written statement of the factual allegations, drafted by an inter-  
18 preter; and (ii) an affidavit from the interpreter: (A) stating the  
19 interpreter's qualifications; (B) affirming that the interpreter accu-  
20 ately translated such statement into English; (C) affirming that the  
21 interpreter accurately communicated the content of the statement to the  
22 deponent in the deponent's primary language; (D) affirming that the  
23 deponent confirmed the accuracy of the allegations as communicated; and  
24 (E) affirming that the interpreter accurately translated the verifica-  
25 tion statement to the witness in the witness's primary language.

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

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

LBD02104-01-3