

STATE OF NEW YORK

7428--B

2021-2022 Regular Sessions

IN ASSEMBLY

May 7, 2021

Introduced by M. of A. JOYNER, FRONTUS, J. D. RIVERA, CLARK, SIMON, FERNANDEZ, CRUZ, RAMOS, NIOU, OTIS -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, the public authorities law and the county law, in relation to requiring certain documents and forms to be provided in multiple languages

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

1 Section 1. Legislative findings and intent. The legislature hereby
2 finds that as New York's immigrant population continues to grow, inabil-
3 ity to access documents translated into languages that community members
4 read and lack of interpretation of government services and resources
5 into languages that community members speak are major barriers to the
6 advancement of the state's immigrant population. However, currently
7 language access in New York is based on an Executive Order which
8 mandates translation into the same ten languages across the entire
9 state, failing to account for significant differences in immigrant popu-
10 lations across New York's regions. Translation is also only mandatory in
11 a handful of executive specific agencies, instead of across all subdivi-
12 sions of state and county government. The legislature believes language
13 access improves the lives of immigrants by increasing opportunities for
14 employment, business ownership, and other vital services, while making
15 staff time at state agencies and authorities more efficient, benefiting
16 all of New York.

17 § 2. The executive law is amended by adding a new article 49-C to read
18 as follows:

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

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ARTICLE 49-C
LANGUAGE ACCESS

Section 996. Language access.

996-a. Private right of action.

§ 996. Language access. 1. Each state agency that provides direct public services shall translate vital documents, including essential public documents such as forms and instructions provided to or completed by program beneficiaries or participants. Such translation shall be available in the twelve most common non-English languages spoken by limited English proficient immigrants in the state who arrived within the last five years according to the American community survey, as published by the United States census bureau.

2. Each such agency shall additionally make such translations available within each region of the state, as established by article eleven of the economic development law, in the three most common non-English languages which are spoken in that region by limited English proficient immigrants who arrived within the last five years according to the American community survey, as published by the United States census bureau, which are not already included among the twelve languages specified in subdivision one of this section.

3. The list of most common languages shall be updated every two years, based on the most recent American community survey data, as published by the United States census bureau.

4. Each agency shall provide interpretation services between the agency and an individual in their primary language, including American Sign Language, with respect to the provision of services or benefits.

5. Within ninety days of the effective date of this section, each agency shall publicly publish a language access plan which reflects how the agency will comply with the language access requirements of this section, and shall set forth, at a minimum:

(a) core communication principles with respect to people in the limited English proficient community;

(b) when and by what means the agency will provide or is already providing language access services;

(c) the titles of all available translated documents and the languages into which they have been translated;

(d) the number of public contact positions in the agency and the number of bilingual employees in public contact positions including the languages they speak;

(e) a training plan for agency employees which includes, at a minimum, annual training on the language access policies of the agency and how to provide language assistance services;

(f) a plan of how the agency intends to notify the population of offered language assistance services;

(g) a language access coordinator at the agency, who shall be publicly identified;

(h) a phone number or email address by which the public can lodge complaints against the agency for noncompliance. Such complaints shall be kept for a minimum of two years; and

(i) make public the number of complaints during a twelve month period against noncompliance and resolutions to such complaints.

§ 996-a. Private right of action. Any person injured by noncompliance with the provisions of this article may bring an action to recover actual damages suffered. In any action brought under this section, the court may award reasonable attorney's fees to a prevailing plaintiff.

1 § 3. Article 9 of the public authorities law is amended by adding a
2 new title 13 to read as follows:

3 TITLE 13
4 LANGUAGE ACCESS

5 Section 2988. Language access.

6 2988-a. Private right of action.

7 § 2988. Language access. 1. Each state authority that provides direct
8 public services shall translate vital documents, including essential
9 public documents such as forms and instructions provided to or completed
10 by program beneficiaries or participants. The translation shall be
11 available in the twelve most common non-English languages spoken by
12 limited English proficient immigrants in the state who arrived within
13 the last five years according to the American community survey, as
14 published by the United States census bureau.

15 2. Each such authority shall make such translations available within
16 each region of the state, as established by article eleven of the
17 economic development law, in the three most common non-English languages
18 which are spoken in that region by limited English proficient immigrants
19 who arrived within the last five years according to the American commu-
20 nity survey, as published by the United States census bureau, which are
21 not already included among the twelve languages specified in subdivision
22 one of this section.

23 3. The list of most common languages shall be updated no less than
24 every two years from the effective date of this section, based on the
25 most recent American community survey, as published by the United States
26 census bureau.

27 4. Each such authority shall provide interpretation services between
28 the agency and an individual in his or her primary language, including
29 American Sign Language, with respect to the provision of services or
30 benefits. This includes both in-office services, and services provided
31 outside of the agency office. This includes, but is not limited to, the
32 department of motor vehicles, and the administering of road tests.

33 5. Within ninety days of the effective date of this section, each such
34 authority shall publish a language access plan which reflects how the
35 authority will comply with the language access requirements pursuant to
36 this section, and shall set forth, at a minimum:

37 a. core communication principles with respect to people in the limited
38 English proficient community;

39 b. when and by what means the authority will provide or is already
40 providing language access services;

41 c. the titles of all available translated documents and the languages
42 into which they have been translated;

43 d. the number of public contact positions in the authority and the
44 number of bilingual employees in public contact positions including the
45 languages they speak;

46 e. a training plan for employees which includes, at a minimum, annual
47 training on the language access policies of the authority and how to
48 provide language assistance services;

49 f. a plan of how the authority intends to notify the population of
50 offered language assistance services;

51 g. a language access coordinator at the authority, who shall be
52 publicly identified;

53 h. a phone number or email address by which the public can lodge
54 complaints against the agency for noncompliance. Such complaints shall
55 be kept for a minimum of two years; and

1 i. make public the number of complaints during a twelve month period
2 against noncompliance and resolutions to such complaints.

3 § 2988-a. Private right of action. Any person injured by noncompliance
4 with the provisions of this article may bring an action to recover actu-
5 al damages suffered. In any action brought under this section, the court
6 may award reasonable attorney's fees to a prevailing plaintiff.

7 § 4. The county law is amended by adding a new article 24-A to read as
8 follows:

9 ARTICLE 24-A
10 LANGUAGE ACCESS

11 Section 950. Language access.

12 951. Private right of action.

13 § 950. Language access. 1. Every political entity of a county that
14 provides direct public services shall translate vital documents, includ-
15 ing essential public documents such as forms and instructions provided
16 to or completed by program beneficiaries or participants. The trans-
17 lation shall be available in the twelve most common non-English
18 languages spoken by limited English proficient immigrants in the state
19 who arrived within the last five years according to the American commu-
20 nity survey, as published by the United States census bureau.

21 2. Each such political entity of a county shall make such translations
22 available within each region of the state, as established by article
23 eleven of the economic development law, in the three most common non-
24 English languages which are spoken in that region by limited English
25 proficient immigrants who arrived within the last five years according
26 to the American community survey, as published by the United States
27 census bureau, which are not already included among the twelve languages
28 specified in subdivision one of this section.

29 3. Notwithstanding the provisions of subdivision one of this section,
30 a county may add additional languages as necessary to accommodate local
31 variances from statewide languages, provided such languages are added
32 after public notice and opportunity to comment.

33 4. The list of most common languages shall be updated no less than
34 every two years from the effective date of this section, based on the
35 most recent American community survey, as published by the United States
36 census bureau, and any additional languages such county shall choose to
37 select.

38 5. Each such political entity of a county shall provide interpretation
39 services between the entity and an individual in his or her primary
40 language with respect to the provision of services or benefits.

41 6. Within ninety days of the effective date of this section, each such
42 political entity of a county shall publish a language access plan which
43 reflects how the political entity will comply with the language access
44 requirements pursuant to this section, and shall set forth, at a mini-
45 mum:

46 (a) core communication principles with respect to people in the limit-
47 ed English proficient community;

48 (b) when and by what means the political entity shall provide or is
49 already providing language access services;

50 (c) the titles of all available translated documents and the languages
51 into which they have been translated;

52 (d) the number of public contact positions in the political entity and
53 the number of bilingual employees in public contact positions including
54 the languages they speak;

1 (e) a training plan for employees of the political entity, which
2 includes, at a minimum, annual training on the language access policies
3 of the political entity and how to provide language assistance services;

4 (f) a plan of how the political entity intends to notify the popu-
5 lation of offered language assistance services; and

6 (g) a language access coordinator at the political entity, who shall
7 be publicly identified.

8 § 951. Private right of action. Any person injured by noncompliance
9 with the provisions of this article may bring an action to recover actu-
10 al damages suffered. In any action brought under this section, the court
11 may award reasonable attorney's fees to a prevailing plaintiff.

12 § 5. This act shall take effect immediately.