STATE OF NEW YORK

5236--B

Cal. No. 263

2021-2022 Regular Sessions

IN SENATE

February 26, 2021

Introduced by Sens. KENNEDY, BIAGGI, BROUK, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAPLAN, LIU, MAY, RAMOS, RIVERA, RYAN, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

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

LBD09702-06-2

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

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 actu-

al damages suffered. In any action brought under this section, the court may award reasonable attorney's fees to a prevailing plaintiff.

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

TITLE 13

LANGUAGE ACCESS

Section 2988. Language access.

2988-a. Private right of action.

§ 2988. Language access. 1. Each state authority 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. The 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 authority shall 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 no less than every two years from the effective date of this section, based on the most recent American community survey, as published by the United States census bureau.

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

5. Within ninety days of the effective date of this section, each such authority shall publish a language access plan which reflects how the authority will comply with the language access requirements pursuant to 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 authority 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 authority and the number of bilingual employees in public contact positions including the languages they speak;

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

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

g. a language access coordinator at the authority, 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.

§ 2988-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.

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

ARTICLE 24-A
LANGUAGE ACCESS

Section 950. Language access.
951. Private right of action.

§ 950. Language access. 1. Every political entity of a county 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. The 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 political entity of a county shall 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. Notwithstanding the provisions of subdivision one of this section, a county may add additional languages as necessary to accommodate local variances from statewide languages, provided such languages are added after public notice and opportunity to comment.

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

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

6. Within ninety days of the effective date of this section, each such political entity of a county shall publish a language access plan which reflects how the political entity will comply with the language access requirements pursuant to 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 political entity shall 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 political entity and the number of bilingual employees in public contact positions including the languages they speak;

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

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

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

§ 951. 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.

§ 5. This act shall take effect immediately.