STATE OF NEW YORK

3381--A

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- 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:

Section 1. Subdivision 1 of section 202-a of the executive law, as added by section 1 of part GG of chapter 56 of the laws of 2022, is amended to read as follows:

1. **(a)** Each state agency that provides direct public services in New York state shall translate all vital documents relevant to services offered by the agency**, including essential public documents such as forms and instructions provided to or completed by program beneficiaries or participants,** into the twelve most common non-English languages spoken by limited-English proficient individuals in the state **who arrived within the last five years**, based on the data in the most recent American Community Survey published by United States Census Bureau**, including but not limited to data collected by public schools, local interpreting agencies, federal refugee resettlement programs, and state agencies**. [~~Agencies subject to this section, in their discretion, may offer up to four additional languages beyond the twelve most common languages. Such additional languages shall be decided by the state agency in consultation with the office of general services and approved by the office of general services based on the number of limited-English proficient immigrants of five years or less in New York state in need of language translation services according to the American Community Survey, including the growth of recent arrival populations in the geographic regions in which the agency's services are offered, the popu-~~

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

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~~lation of limited-English proficient individuals served by the agency, feedback from impacted community or advocacy groups, and any other relevant data published by the United States Census Bureau.~~]

(b) Each 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 and are not already included among the twelve languages specified in paragraph (a) of this subdivision. Such additional languages shall be decided by the state agency in consultation with the office of general services and approved by the office of general services based on the number of limited-English proficient immigrants who have arrived in New York state within the last five years, according to the United States census bureau and American community survey, including the growth of recent arrival populations in the geographic regions in which the agency's services are offered, the population of limited-English proficient individuals served by the agency, feedback from impacted community or advocacy groups, and any data collected from the sources listed in paragraph (a) of this subdivision.

(c) The list of most common languages shall be updated every two years, based on the most recent data collected by the United States census bureau and American community survey, including but not limited to the data sources listed in paragraph (a) of this subdivision.

(d) Each agency shall provide competent and timely interpretation services to individuals in their primary or preferred language with respect to the provisions of services and benefits. This includes both in-office services, and services provided outside of the department office. Competent interpretation shall mean spoken or signed, real-time communication in which the qualified human interpreter is fluent in both the source and target language and is trained as an interpreter.

§ 2. Subparagraphs (viii) and (ix) of paragraph (c) of subdivision 3 of section 202-a of the executive law, as added by section 1 of part GG of chapter 56 of the laws of 2022, are amended and three new subparagraphs (x), (xi) and (xii) are added to read as follows:

(viii) an explanation as to how the agency determined it would provide any additional language beyond the top twelve languages required by this section; [~~and~~]

(ix) the identity of the agency's language access coordinator[~~.~~];

(x) accommodations for communication access shall be available upon request including American sign language interpretation via an on-site interpreter, video remote interpreter, or communication access real-time translation for individuals who are deaf, hard of hearing or have hearing loss;

(xi) 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

(xii) a process to make public the number of complaints during a twelve month period against noncompliance and resolution to such complaints.

§ 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. accommodations for communication access shall be available upon request including American sign language interpretation via an on-site interpreter, video remote interpreter, or communication access real-time translation for individuals who are deaf, hard of hearing or have hearing loss;

i. 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

j. 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 title 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;

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

(h) accommodations for communication access shall be available upon request including American sign language interpretation via an on-site interpreter, video remote interpreter, or communication access real-time translation for individuals who are deaf, hard of hearing or have hearing loss;

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

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

§ 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.