



SPONSOR: Sen. Walsh & Rep. K. Williams
Sens. Huxtable, Pinkney, Townsend; Reps. Baumbach,
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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 82

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO IMPROVING COMMUNICATION ASSISTANCE FOR INDIVIDUALS WITH LIMITED ENGLISH PROFICIENCY AND DISABILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part X, Title 29 of the Delaware Code by creating a new Chapter 106 by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 106. Improving communication assistance for individuals with disabilities and limited English proficiency.

§ 10601. Purpose.

Many State agencies and programs receive federal assistance and are therefore required by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., to take reasonable steps to provide meaningful access to services for individuals with limited English proficiency. Providing meaningful access can include offering free and timely interpretation services and translation of vital documents.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and State law require effective communication for individuals with disabilities. Providing effective communication under these laws can include offering auxiliary aids such as sign language interpreters.

The General Assembly is committed to ensuring that all individuals, regardless of language or communication method, may meaningfully access important programs. This chapter is intended to provide the General Assembly with information about compliance with federal and State laws regarding language and communication access. Additionally, this chapter provides support for language and communication assistance for individuals renting or purchasing a home or facing eviction or foreclosure.

§ 10602. Definitions.

For purposes of this chapter:

(1) "Auxiliary aid" means as "auxiliary aids and services" is defined in 28 C.F.R. § 36.303.

(2) "Effective communication" means communication with an individual with a disability that is equally effective as communication with an individual without a disability. Federal and State law and regulation, and the interpretation thereof, govern how to determine whether "effective communication" has been provided.

(3) “Individual with a disability” means as “disability” is defined in 42 U.S.C. § 12102 and as “person with a disability” is defined in § 4502 of Title 6.

(4) “Limited English proficiency” or “LEP” means not utilizing English as a primary language and having a limited ability to read, write, speak, or understand English.

(5) “Meaningful access” means that an individual with LEP’s right to be informed of, participate in, and benefit from a program is at a level equal to that of an individual proficient in the English language. Federal law and regulation, and the interpretation thereof, govern how to determine whether “meaningful access” has been provided.

(6) “Program” means all operations of a State department, State agency, or any other instrumentality of this State, including boards and commissions.

(7) “Tenant” means as defined in § 5141 of Title 25.

(8) “Vital document” means a document that affects access to, retention in, reduction of, termination, or exclusion from a program’s services or benefits. “Vital document” includes any of the following:

a. Application.

b. Consent form.

c. Complaint form.

d. Intake form.

e. Notice pertaining to eligibility for services or benefits.

f. Notice pertaining to rights and the reduction, denial, or termination of services or benefits.

g. Communications that require a response from the individual with LEP or a disability.

h. Notice affecting parental custody or child support.

i. Written test that does not test English language competency but rather tests competency for a particular license, job, or skill for which knowing the English language is not required.

j. Document that must be provided by law.

k. Notice regarding the availability of free language assistance services for individuals with LEP.

§ 10603. Communication assistance reports.

(a) A program listed under § 10604 of this title shall submit a report annually, due by December 1 of each year, to the General Assembly. If the deadline falls on a weekend or State holiday, then the report is due by the State’s next following business day.

(b) Beginning [December 1 following 30 days after enactment of this Act] until the reporting requirements under subsection (c) of this section begin, the report must provide all of the following information:

53 (1) The steps taken by the program to comply with federal and State law and regulation to provide meaningful
54 access to individuals with LEP and effective communication for individuals with disabilities.

55 (2) The types of translation or interpretation services or tools used by the program.

56 (3) Estimate of the program expenses associated with compliance with federal and State law and regulation to
57 provide meaningful access to individuals with LEP and effective communication for individuals with disabilities.

58 (4) Estimate of the number of individuals with LEP served by the program.

59 (5) Estimate of the number of individuals with disabilities served by the program.

60 (6) How the availability of free language assistance and auxiliary aids are communicated to the public.

61 (7) Description of staff training and frequency of training on working with individuals with LEP or
62 disabilities.

63 (8) Copy of any report submitted to a federal agency within the previous year that contains information about
64 a program's compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., Section 504 of the
65 Rehabilitation Act of 1973, 29 U.S.C. § 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.

66 (9) Additional resources, if any, needed to improve program access for individuals with LEP or disabilities.

67 (c) Beginning [4 years after enactment of this Act], the report must provide all of the following information:

68 (1) The information required in paragraphs (b)(1), (2), (7), (8), and (9) of this section.

69 (2) The number of individuals with LEP or disabilities served by the program, disaggregated by individuals
70 with LEP, individuals with disabilities, and individuals with both LEP and disabilities, and the methodology for how
71 that data was collected.

72 (3) Frequency that individuals with LEP or disabilities access the program in person, disaggregated by
73 individuals with LEP, individuals with disabilities, and individuals with both LEP and disabilities, and the
74 methodology for how that data was collected.

75 (4) Frequency that individuals with LEP or disabilities receive in-person translation or interpretation services,
76 or in-person auxiliary aids from the program, disaggregated by individuals with LEP, individuals with disabilities, and
77 individuals with both LEP and disabilities, and the methodology for how that data was collected.

78 (5) Frequency that individuals with LEP or disabilities access the program remotely, disaggregated by
79 individuals with LEP, individuals with disabilities, and individuals with both LEP and disabilities, and methodology
80 for how that data was collected.

81 (6) Frequency that individuals with LEP or disabilities receive telephonic or other remote translation or
82 interpretation services, or telephonic or other remote auxiliary aids from the program, disaggregated by individuals

with LEP, individuals with disabilities, and individuals with both LEP and disabilities, and methodology for how that data was collected.

(7) Frequency that staff offer free language assistance or auxiliary aids and methodology for how that data was collected.

(c) For the purposes of submitting a report under this section to the General Assembly, the reports must be submitted to the Secretary of the Senate, the Chief Clerk of the House, and the Director and Legislative Librarian of the Division of Research.

§ 10604. Reporting programs.

(a) All of the following programs shall submit reports under § 10603 of this title:

(1) Department of Health and Social Services.

(2) Department of Labor, with information disaggregated for the Office of Workers' Compensation.

(3) Department of Services for Children, Youth & Their Families.

(4) Department of Correction.

(5) Department of Safety and Homeland Security.

(6) Department of Transportation, with information disaggregated for the Delaware Transit Corporation and DART First State.

(7) Human and Civil Rights Commission.

(8) Delaware State Police.

(9) Division of Revenue.

(10) Delaware State Housing Authority.

(11) Department of Natural Resources and Environmental Control.

(12) Department of Education.

(13) Department of Justice.

(14) Department of Agriculture.

(15) Delaware Economic Development Authority.

(16) Delaware Office of Veterans' Services, with information disaggregated for the Delaware Commission of Veterans' Affairs.

(17) Delaware Manufactured Home Relocation Authority.

(b) Five additional programs, to be determined by the Department of Justice, shall also submit reports as described under § 10603 of this title.

§ 10605. Special language and communication assistance for housing matters.

(a) The Office of the Manufactured Housing Ombudsperson within the Department of Justice shall provide interpretation and translation services, or other auxiliary aids, to help tenants with LEP or disabilities to better understand and participate in matters related to manufactured housing leases and evictions under Parts III and VI of Title 25.

(b) The Department of Justice shall directly or indirectly provide interpretation and translation services, or other auxiliary aids, to help tenants with LEP or disabilities or individuals with LEP or disabilities to better understand and participate in matters related to both of the following:

(1) Residential leases and evictions under Part III of Title 25, not related to manufactured housing.

(2) Residential home purchase and foreclosure.

§ 10606. Application.

This chapter may not be interpreted to limit or remove the responsibility that a program or any person may have to take reasonable steps to provide meaningful access to services or to provide effective communication under federal or State laws or regulation.

§ 10607. Regulations.

The Department of Justice may adopt regulations to implement this chapter.

Section 2. This Act is effective upon enactment and must be implemented no later than 30 days after enactment.

Section 3. This Act is funded as follows:

(1) The Department of Justice is not required to spend more than \$48,500 on translation and interpretation services, and auxiliary aids, under § 10605 of Title 29, in the fiscal year following enactment.

(2) The reports required under §§ 10603 and 10604 of Title 29 will inform the General Assembly regarding appropriations necessary to improve meaningful program access for individuals with limited English proficiency and effective communication for individuals with disabilities.

Section 4. Unless extended by an act of the General Assembly, § 10605 of Title 29 expires 2 years after enactment.

SYNOPSIS

This Act requires certain State programs to provide annual reports to the General Assembly about compliance with federal and State law and regulation that require meaningful access to services for individuals with limited English proficiency (LEP) and effective communication for individuals with disabilities.

The first report is due beginning December 1 following 30 days after the enactment of this Act. For the first 3 years after enactment, the reporting requirements are those located in § 10603(b) of Title 29. These reporting requirements allow programs to make estimates and are designed to gather information on compliance and any challenges while giving State programs time to prepare for collecting more detailed data in the future. Beginning 4 years after enactment of this Act, State programs that are required to report shall comply with the reporting requirements in § 10603(c) of Title 29. The reporting requirements in § 10603(c) require data collection about various aspects of program access and effective communication for individuals with LEP and disabilities.

The reports provided under this chapter will inform the General Assembly regarding appropriations necessary to improve meaningful program access for individuals with limited English proficiency and effective communication for individuals with disabilities.

This Act also creates a short-term program within the Office of the Manufactured Housing Ombudsperson and the Department of Justice. This program will provide special language and communication assistance support for individuals with limited English proficiency and disabilities to better understand and participate in matters related to residential leases and evictions and home purchases and foreclosures. The program will expire 2 years after enactment of this Act unless extended by an act of the General Assembly. The Department of Justice is not required to spend more than \$48,500 on translation and interpretation services, and auxiliary aids, in the fiscal year following enactment.

This Act must be implemented no later than 30 days after enactment.

Author: Senator Walsh