

SENATE BILL NO. 45

January 22, 2019, Introduced by Senators CHANG, HOLLIER, MOSS, GEISS, ANANICH, ALEXANDER, MCMORROW, IRWIN, SCHMIDT, BAYER and BULLOCK and referred to the Committee on Government Operations.

A bill to facilitate access to state services by individuals with limited English proficiency; to provide for the powers and duties of certain state governmental officers and entities; to provide for biennial reports concerning equal language access; and to establish a process for submitting complaints and obtaining remedies for lack of equal language access.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "equal language access to state services act".

1 (2) As used in this act:

2 (a) "Covered entity" means a state department, agency, or
3 entity.

4 (b) "Equal language access" means the ability to receive
5 information and to participate in and benefit from public services
6 offered by a covered entity at a level equal to English-proficient
7 individuals.

8 (c) "Limited English proficiency" means the inability to
9 understand or to effectively express oneself in spoken or written
10 English because the individual's primary language is not English
11 and the individual has not developed fluency in the English
12 language.

13 (d) "Oral language services" includes various methods to
14 provide verbal information and interpretation, such as staff
15 interpreters, bilingual staff, telephone interpreter programs,
16 televideo interpretation services, and private interpreter
17 programs.

18 (e) "Vital documents" means printed or electronic documents
19 that provide important information necessary to access or
20 participate in services, programs, and activities of a covered
21 entity, including, but not limited to, applications, outreach
22 materials, and written notices of rights, denials, losses, or
23 decreases in benefits or services.

24 Sec. 2. Each covered entity shall take reasonable steps to
25 provide equal language access to public services for individuals
26 with limited English proficiency. Reasonable steps include all of
27 the following:

28 (a) Providing oral language services for individuals with
29 limited English proficiency through face-to-face, in-house oral

1 language services. Oral language services provided under this act
2 must be provided by individuals and through means with demonstrated
3 competency in the appropriate language. Oral language services
4 provided by a relative, friend, or bystander do not meet the
5 requirements of this act and do not substitute for the duty to
6 provide access to oral language services. However, the person with
7 limited English proficiency may choose to use an interpreter of his
8 or her choice, at his or her expense, in place of or as a
9 supplement to the oral language services the covered entity is
10 required to provide.

11 (b) Having available sufficient, appropriate oral language
12 services to provide equal language access, based on reliable data
13 documenting the proportion of individuals with limited English
14 proficiency eligible to be served or encountered by the agency and
15 the frequency of encounters within the geographic area served, and
16 taking into consideration the nature and importance of the program,
17 activity, or service provided.

18 (c) Translating vital documents ordinarily provided to the
19 public into any language spoken by a population with limited
20 English proficiency that constitutes at least 3% of the overall
21 population within the geographic area or by 1,000 or more people
22 served by a local office of a state entity, based on any reliable
23 data, and providing those translated documents to local offices as
24 necessary.

25 (d) Any additional means necessary to achieve equal language
26 access to public services.

27 Sec. 3. A covered entity shall not charge individuals with
28 limited English proficiency for the use of oral language services
29 or translation.

1 Sec. 4. Every 2 years, each covered entity shall develop and
2 submit to the department of civil rights a report with information
3 and plans concerning implementation of equal language access to its
4 services. The report must include all of the following:

5 (a) The number of bilingual staff who are available to
6 facilitate equal language access and the languages they facilitate.

7 (b) The number of bilingual staff determined to be needed for
8 each language to provide equal language access for the population
9 with limited English proficiency it serves.

10 (c) A plan to address any insufficiency in its ability to
11 provide equal language access.

12 (d) A list of vital documents that it has had translated and
13 the language of the translation.

14 (e) Designation of an employee as its language access
15 coordinator.

16 (f) A staff training plan related to equal language access.
17 The staff training plan must include specific information regarding
18 implementation, including the specific types of language services
19 available and how the covered entity will do all of the following:

20 (i) Obtain language services internally or from vendors.

21 (ii) Respond to callers with limited English proficiency.

22 (iii) Respond to written communications from persons with
23 limited English proficiency.

24 (iv) Respond to persons with limited English proficiency who
25 have in-person contact with staff.

26 (v) Ensure competency of interpreters and translation
27 services.

28 (vi) Indicate limited English proficiency status in data and
29 information systems.

1 (vii) Communicate information to the language access
2 coordinator about perceived changes in language services needed by
3 the population served and when that information will be
4 communicated.

5 (g) A plan to increase public awareness of the services
6 provided to facilitate equal language access.

7 Sec. 5. The department of civil rights shall do both of the
8 following:

9 (a) Create a complaint form and a process for members of the
10 public to use to report and pursue a remedy for instances of
11 noncompliance with this act.

12 (b) Designate a language access liaison to work with covered
13 entities to train staff, develop resources, and facilitate
14 compliance with this act.

15 Enacting section 1. This act takes effect 90 days after the
16 date it is enacted into law.

17 Enacting section 2. It is the intent of the legislature that
18 in implementing this act each covered entity be guided by federal
19 Executive Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000), and
20 related implementing provisions of federal law, regulation, and
21 guidance in providing language access services, whether or not the
22 covered entity receives federal funding.