



SPONSOR: Sen. Walsh & Rep. K. Williams
Sens. Huxtable, Pinkney, Townsend; Reps. Baumbach,
K. Johnson, Wilson-Anton

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
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:

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

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

4 § 10601. Background and purpose.

5 The background and purpose of this chapter are as follows:

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

10 (2) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, the Americans with Disabilities Act of
11 1990, 42 U.S.C. § 12101 et seq., and State law require effective communication for individuals with disabilities.
12 Providing effective communication under these laws can include offering auxiliary aids such as sign language
13 interpreters.

14 (3) The General Assembly is committed to ensuring that all individuals, regardless of language or
15 communication method, may meaningfully participate in important programs. This chapter is intended to provide the
16 General Assembly with preliminary information about compliance with federal and State laws regarding language and
17 communication access by obtaining reports from a sample of State public entities and programs. Additionally, this
18 chapter provides support for language and communication assistance for individuals renting or purchasing a home or
19 facing eviction or foreclosure.

20 § 10602. Definitions.

For purposes of this chapter:

(1) “Auxiliary aid” means as “auxiliary aids and services” is defined in 28 C.F.R. § 35.104.

(2) “Effective communication” means appropriate steps must be taken to ensure that communications with individuals with disabilities or LEP are as effective as communications with others. 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, when the disability affects communication.

(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 language assistance for individuals with LEP that results in accurate, timely, and effective communication at no cost to the individual with LEP. The individual with LEP’s right to be informed of, participate in, and benefit from, a program may not be significantly restricted, delayed, or inferior as compared to English proficient individuals. 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 public entity. For the purposes of § 10604(a) and (c) of this title, “program” is more narrowly defined and means 1 operation, unit, or service of a State public entity.

(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” may include 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) An entity or program identified under § 10604 of this title shall submit an annual report that includes all of the following information:

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

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

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

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

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

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

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

(8) Copy of any report submitted to a federal agency within the previous year that contains information about 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 Rehabilitation Act of 1973, 29 U.S.C. § 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.

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

(b) The report must be submitted to the General assembly by December 1 of each year. If the deadline falls on a weekend or State holiday, then the report is due by the State's next following business day.

(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 entities and programs.

(a) The secretary or director of each of the following departments or divisions shall select at least two programs within their department or division to submit reports under § 10603 of this title:

(1) Department of Health and Social Services.

(2) Department of Labor.

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

81 (4) Department of Correction.

82 (5) Department of Safety and Homeland Security.

83 (6) Department of Transportation.

84 (7) Division of Revenue.

85 (8) Department of Natural Resources and Environmental Control.

86 (9) Department of Education.

87 (10) Department of Justice.

88 (11) Department of Agriculture.

89 (b) The following entities shall submit reports under § 10603 of this title:

90 (1) Delaware Economic Development Authority.

91 (2) Delaware Office of Veterans' Services.

92 (3) Delaware Manufactured Home Relocation Authority.

93 (4) The Delaware Transit Corporation.

94 (5) Human and Civil Rights Commission.

95 (6) Delaware State Housing Authority.

96 (7) Delaware State Police.

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

99 § 10605. Special language and communication assistance for housing matters.

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

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

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

108 (2) Residential home purchase and foreclosure.

109 (c) The Department of Justice may limit or otherwise modify the scope of services provided under this section to
110 ensure that the cost of providing special language and communication assistance does not exceed the funding allocated for

111 it to do so and to ensure that the number of staff required to provide special language and communication assistance does
112 not exceed the number of staff available.

113 § 10606. Application.

114 This chapter may not be interpreted to limit or end the responsibility that a program or any person may have to
115 take reasonable steps to provide meaningful access to services to individuals with LEP or to provide effective
116 communication to individuals with disabilities under federal or State laws or regulation.

117 § 10607. Regulations.

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

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

120 Section 3. This Act is funded as follows:

121 (1) The Department of Justice is not required to spend more than \$48,500 on translation and interpretation
122 services, and auxiliary aids, under § 10605 of Title 29, in the fiscal year following 30 days after enactment.

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

126 Section 4. Unless extended by an act of the General Assembly, this Act expires 2 years after enactment.

SYNOPSIS

This Act is a Substitute for Senate Bill No. 82. Both this Act and SB 82 require 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.

Both this Act and SB 82 provide support for language and communication assistance for individuals renting or purchasing a home or facing eviction or foreclosure. This Act and SB 82 create 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 individuals with disabilities to better understand and participate in matters related to residential leases and evictions and home purchases and foreclosures. 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 30 days after enactment.

This Act differs from SB 82 as follows:

(1) Some definitions are updated to conform more closely to federal law. Additionally, this Act narrows the definition of "individual with a disability" to be someone with a disability affecting communication, since this Act is designed to gather data and provide support related to effective communication.

(2) This Act narrows the scope of agency programs about which reporting must occur. Instead of collecting information about agency-wide compliance, this Act will gather preliminary information about compliance by obtaining reports about a sample of agency programs. This Act requires the secretaries and directors of various departments and divisions to select and report about at least 2 operations, units, or services provided by their department or division. Certain enumerated entities under § 10604(b) of Title 29 will be required to report about their compliance. Also, the Department of Justice shall select 5 programs that will be required to submit reports.

(3) In SB 82, programs had to complete narrative reports for the first 3 years after enactment. Beginning 4 years after enactment, the reporting programs were required to submit reports that required data collection. This Act keeps only the narrative reports.

(4) Revises the special language and communication assistance program to allow the Department of Justice to create 1 program to fulfill its obligations under this Act to provide support for language and communication assistance for individuals renting or purchasing a home or manufactured home or facing eviction or foreclosure, as well as limits the program's obligations to the extent of the appropriated funds received.

(5) In SB 82, the special language and communication assistance program was to sunset 2 years after enactment unless otherwise extended, while the reporting requirements were to continue. In this Act, the entire Act sunsets 2 years after enactment unless extended by an act of the General Assembly.

Author: Senator Walsh