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HOUSE BILL NO. 1049

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:6, by adding in Chapter 4.2:2 of Title 2.2 a section numbered 2.2-435.13, and by adding a section numbered 2.2-604.3, relating to administration of government; language access equity; report.

Patrons—Tran, Convirs-Fowler, Carr, Jenkins, Keam, Maldonado, Shin and Willett

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:6, by adding in Chapter 4.2:2 of Title 2.2 a section numbered 2.2-435.13, and by adding a section numbered 2.2-604.3 as follows:

§ 2.2-203.2:6. Additional duties of the Secretary; language access equity.

The Secretary shall have the following duties related to language access equity in the Commonwealth:

1. Establish criteria for the procurement of language interpretation and translation services by state agencies. Such criteria shall also include metrics to be used to ensure accurate interpretation and translation.

2. Establish a policy to determine qualifications of and compensation for state employees who are multilingual and are required as part of their job to provide interpretation, translation, or other bilingual skills at least once a month.

§ 2.2-435.13. Interagency Language Access Working Group; report.

A. There is hereby established the Interagency Language Access Working Group (the Working Group) in the Office of the Director for the purpose of maximizing state policies, resources, technical assistance, and procurement practices to further language access in the Commonwealth.

The Working Group shall consist of the Director, who shall serve as the chairman, each Secretary or his designee, the Director of the Office of the Children's Ombudsman, and six nonlegislative citizen members appointed by the Governor. The nonlegislative citizen members shall be residents of the Commonwealth and represent organizations or associations representing individuals and communities with language access needs in Virginia. Two nonlegislative citizen members shall be representatives of organizations or associations representing individuals with disabilities that affect communication, three nonlegislative citizen members shall be representatives of organizations or associations that work with people who have limited proficiency in the English language, and one nonlegislative citizen member shall be a representative of a resettlement agency, as determined by the U.S. Department of Health and Human Services. The Working Group shall meet quarterly or as called by the chairman.

B. The Working Group shall:

1. Establish and maintain a model language access policy for use by all state agencies;

2. Develop and update as needed a glossary of common terms used by state agencies and translated into at least 10 of the most frequently spoken non-English languages in the Commonwealth;

3. Work with the language access coordinator in each state agency to track the progress being made by the agency in ensuring language access for the public;

4. Recommend policy changes, review relevant provisions of the Code of Virginia, and identify funding and resources in order to meet the needs of individuals with language access needs, including languages of lesser diffusion; and

5. Submit an annual report to the Governor and the General Assembly by November 1 of each year, covering the previous fiscal year. The report shall be made available for public review and comment no later than October 1 of each year, and all comments received from the public shall be included in the report when submitted to the Governor and the General Assembly.

C. For purposes of this section, "languages of lesser diffusion" means any language spoken by a small number of people within a limited geographic area.

§ 2.2-604.3. Language access policy; language access coordinator; report.

A. For purposes of this section:

"Meaningfully accessible" or "to meaningfully access" means language assistance that results in accurate, timely, and effective communication at no cost to non-English speakers or persons with disabilities and that is not significantly restricted, delayed, or inferior compared with programs,

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services, or activities provided to English-proficient or non-disabled individuals.

"Person with a disability" means the same as that term is defined in § 51.5-40.1.

B. It shall be the policy of the Commonwealth to ensure that programs, services, and activities that each state agency normally provides in English be meaningfully accessible to and available for participation in by non-English speakers and persons with disabilities. Each state agency shall adopt a language access policy to implement the Commonwealth's policy.

C. The head of each state agency shall designate an employee to serve as the agency's language access coordinator. The language access coordinator shall be responsible for developing and implementing the agency's language access policy and preparing an annual language access report for the agency by the end of each fiscal year.

D. The annual language access report required pursuant to subsection C shall:

1. Address key policies and steps undertaken by the agency in the preceding fiscal year to ensure that individuals with limited English proficiency or a disability that affects communication are able to meaningfully access the agency's programs, services, and activities for which they are eligible;

2. Identify any applicable federal and state laws or guidance related to language access that applies to the services and programs provided by the agency and describe the steps the agency has taken to comply with such laws or guidance;

3. Compile and analyze data on the language access needs of the agency, including the major languages used by the individuals served by the agency, and the number of individuals with language access needs that were served during the year, organized by each major language identified and by any disability present that affects communication;

4. Identify and describe each strategy the agency has employed to ensure the provision of agency services in a culturally competent manner to any individual who has language access needs, including strategies to (i) recruit and hire bilingual staff; (ii) hire or contract with interpreters and translators; and (iii) translate information in public-facing offices, agency websites, and web-based and hard-copy forms, pamphlets, or other materials about agency services;

5. Describe how the agency informs the public about language access rights, the procedures to obtain language access services, and the mechanisms in place for an individual to request in advance such services for any meeting, test, hearing, or other event or interaction sponsored by the agency;

6. Describe the training and resources the agency provides to local agency offices and public-facing staff to assist them with meeting language access needs;

7. Identify each step the agency is taking to monitor and evaluate the delivery of language access services;

8. Describe the agency's grievance or complaint process regarding language access services and identify the number of complaints the agency received and a description of how each complaint was resolved; and

9. Identify any needed changes to the agency's language access policy.

2. That the language access policy required to be adopted by each state agency pursuant to § 2.2-604.3 of the Code of Virginia, as created by this act, shall be adopted by November 1, 2023, and shall be updated each year thereafter. Any new state agency created after November 1, 2023, shall adopt a language access policy within six months of the effective date of its creation.