

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 987 (Delegate Acevero, *et al.*)
Health and Government Operations

State Government - Equal Access to Public Services for Individuals With Limited English Proficiency - Modifications

This bill expands existing requirements for specified State departments, agencies, and programs regarding efforts to provide equal access to public services for individuals with limited English proficiency (LEP) by also requiring those entities to, among other items, designate a language access compliance program coordinator and establish a language access compliance policy and standard operating procedure. The Office of the Attorney General (OAG) must, among other responsibilities, provide oversight, monitoring, investigation, and enforcement of each State department, agency, or program.

Fiscal Summary

State Effect: Known State expenditures (multiple fund types) increase by a *minimum* of \$1.6 million in FY 2025 for staffing costs; future years reflect annualization and inflation. State expenditures further increase significantly (likely exceeding \$1.0 million on an annual basis) to fully implement the bill's requirements, as discussed below. Federal fund revenues increase by approximately \$40,000 annually to reflect federal matching funds. General fund revenues from civil penalties may increase minimally.

Local Effect: The bill is not expected to materially affect local government finances and operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: Each State department, agency, or program listed or identified under § 10-103(c) of the State Government Article must:

- designate a language access compliance program coordinator to coordinate requests for oral language services and translations of vital documents to an individual with LEP who seeks access to or participation in any services, programs, or activities offered by a State department, agency, or program;
- establish a language access plan, in consultation with the language access compliance program coordinator and keep posted in a conspicuous place on its website a direct link to the language access plan;
- conduct outreach to communities with LEP populations regarding language access plans and the benefits and services offered by each State department, agency, or program;
- establish a language access compliance policy and standard operating procedure, in consultation with the language access compliance program director (as established in the bill);
- display at every public entrance and reception and customer service desk a language identification desktop poster to assist LEP individuals to identify the individual's preferred language and inform individuals that free interpretation services are available;
- develop and distribute to the public a multilingual guide describing how an individual with LEP may receive oral language services and translations of vital documents required and file a complaint for failure to receive any requested services required;
- develop and distribute to any third-party contractors a guidance document that describes (1) any State or federal law that applies to the third-party contractor that relates to specified requirements and (2) each State department's, agency's, or program's ability to provide outreach and technical assistance to the third-party contractor in order for the contractor to carry out its duties under the contract; and
- provide information regarding free legal services available to low-income individuals and with LEP populations.

Reasonable steps to provide equal access to public services include (1) the provision of interpretation services at any public forum if an individual with LEP provides notice to the State department, agency, or program at least five business days before the public forum and (2) the translation of vital documents ordinarily provided to the public into any

language spoken by any LEP population that constitutes 0.5% (instead of 3% under current law) of the overall population within the geographic area served by a local office of a State program as measured by the United States Census.

The language access plan must be updated every two years and include (1) the types of oral language services that the State department, agency, or program will provide and how the determination was reached; (2) the titles of translated documents that the entity will provide and how the determination was reached; (3) the number of contact positions in the entity and the number and language type of bilingual employees in public contact positions; (4) an evaluation and assessment of the adequacy of the services to be provided; and (5) a description of the funding and budgetary sources on which the covered entity intends to rely to implement the language access plan.

On or before December 31 each year, each State department, agency, or program listed or identified under § 10-1103(c) of the State Government Article must submit a related report to the Governor and the General Assembly, as specified.

OAG must (1) provide oversight, monitoring, investigation, and enforcement of each specified State department, agency, or program; (2) designate a language access compliance program director, two language access compliance program monitors, and one language access compliance program analyst; (3) review and monitor each language access plan; (4) provide guidance and supervision to the language access compliance program monitors and analyst; (5) consult with language access compliance program coordinators designated within each entity; (6) develop and update language access policy and language access standard operating procedure templates for the specified State departments, agencies, or programs; (7) develop a strategy to enforce the bill's requirements, including by establishing a civil fine structure, as specified; and (8) develop a plan to increase the population that may receive oral language services over time. The civil fine structure under the bill is to (1) impose a civil fine of up to \$500 for a first offense and (2) increase the fine by \$500 for each subsequent offense.

A language access compliance program monitor or analyst must (1) track and investigate complaints regarding language access violations and (2) issue a written finding of noncompliance to the entity regarding failures to provide language access.

By December 1, 2024, and each December 1 thereafter, OAG must submit a report to the Governor and the General Assembly on complaints received regarding language access violations, including (1) the total number of complaints received; (2) the number of complaints received in each jurisdiction; (3) the preferred language of each complainant; (4) for each State department, agency, or program listed, the number of complaints received, the number of language access violations determined, and the number of complaints denied; and (5) the average and maximum duration of time between the receipt of a complaint and the resolution, in days.

While the bill has an effective date of October 1, 2024, the Maryland Department of Health (MDH), Developmental Disabilities Administration must fully implement the bill by July 1, 2025.

The bill specifies that “oral language services” includes American Sign Language, Braille, and TDD/TT/TTY.

Current Law: Under § 10-1103 of the State Government Article, specified State departments, agencies, or programs must take reasonable steps to provide equal access to public services for individuals with LEP. Reasonable steps to provide equal access to public services include:

- the provision of oral language services for individuals with LEP, which must be through face-to-face, in-house oral language services if contact between the agency and individuals with LEP is on a weekly or more frequent basis;
- the translation of vital documents ordinarily provided to the public into any language spoken by any LEP population that constitutes 3% of the overall population within the geographic area served by a local office of a State program, as specified (and the provision of vital documents to any local office as necessary); and
- any additional methods or means necessary to achieve equal access to public services.

Chapter 141 of 2002, which originally established the aforementioned requirements, also included an implementation schedule within § 10-1103, setting forth the date by which designated State entities must *fully* implement the requirements. State departments, agencies, or programs that are not specified in § 10-1103 must monitor their operations to determine if they should take reasonable steps under statute to achieve equal access to public services for LEP individuals.

State Expenditures: State (primarily general fund) expenditures increase by *at least* \$1.6 million in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date. This estimate reflects *only* the cost of hiring 20.5 individuals throughout various State entities; *significant* additional expenditures are anticipated under the bill, as discussed below. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- *Office of the Attorney General:* To fulfill its responsibilities under the bill, OAG is anticipated to require *at least* eight new staff members (one attorney, two investigators, one program director and four administrative employees) in order to implement the bill. Accordingly, general fund expenditures increase by \$585,700 in fiscal 2025 and increase to approximately \$790,000 in fiscal 2029. Given OAG's specific responsibilities under the bill, this likely reflects the minimum staff required by OAG, however, without experience under the bill, the precise need for additional staff beyond the minimum reflected in this analysis cannot be reliably estimated.
- *Department of Public Safety and Correctional Services:* The Department of Public Safety and Correctional Services (DPSCS) needs to hire at least one program coordinator to manage the language access plan and ensure implementation across all of the State correctional facilities and Division of Parole and Probation offices. General fund expenditures accordingly increase by *at least* \$91,000 in fiscal 2025 and increase to \$124,700 by fiscal 2029.
- *Maryland Department of Health:* MDH requires one administrative officer to perform the coordinator responsibilities specified in the bill, with associated expenditures of approximately \$67,300 in fiscal 2025 and a minimum of \$79,000 annually thereafter. MDH anticipates these expenditures are supported with 50% general funds/50% federal funds (with corresponding federal fund matching revenues).
- *Maryland Department of Agriculture:* The Maryland Department of Agriculture requires one administrator to perform the coordinator responsibilities. Accordingly, general fund expenditures increase by \$96,100 in fiscal 2025 and increase to \$132,000 by fiscal 2029.
- *Maryland Department of the Environment:* The Maryland Department of the Environment requires at least one administrator to perform the coordinator responsibilities. Accordingly, general fund expenditures increase by approximately \$70,500 in fiscal 2025, increasing to \$95,000 by fiscal 2029.
- *Maryland State Department of Education:* The Maryland State Department of Education (MSDE) incurs general fund expenditures of approximately \$67,300 in fiscal 2025, increasing to approximately \$89,900 by fiscal 2029, to hire a communications specialist to act as the language access compliance program coordinator.
- *Department of Natural Resources:* The Department of Natural Resources (DNR) requires at least one language access program coordinator, with general fund expenditures therefore increasing by \$78,000 in fiscal 2025 and by \$105,500 in fiscal 2029.

- *Department of the State Police:* The Department of State Police requires at least one new administrative program manager, with associated general fund expenditures increasing by approximately \$81,400 in fiscal 2025 and by approximately \$110,500 by fiscal 2029.
- *Department of Housing and Community Development:* The Department of Housing and Community Development likewise cannot absorb the additional workload generated by the bill; therefore, costs associated with hiring one administrator are approximately \$80,000 annually.
- *Department of Disabilities:* The Maryland Department of Disabilities requires one part-time contractual language compliance coordinator to implement the bill's requirements. Accordingly, general fund expenditures increase by approximately \$40,000 annually.
- *Department of Transportation:* Several entities under the Maryland Department of Transportation likely require positions to perform coordinator responsibilities. Based on preliminary information provided, State expenditures are anticipated to increase by approximately \$288,300 in fiscal 2025 and by at least \$350,000 annually thereafter.
- *Department of Veterans Affairs:* The Maryland Department of Veterans Affairs does not have a staff position available to absorb the duties required by the bill and therefore estimates general fund expenditures of \$70,500 in fiscal 2025 and increasing to \$96,700 in fiscal 2029.

The Department of Legislative Services notes that the costs reflected above are generally those associated only with salaries, fringe benefits, and *standard* operating/one-time start-up costs. Furthermore, this fiscal and policy note only accounts for estimated costs for those agencies who were solicited to provide a response regarding the fiscal impact of the bill (and who provided such a response). Other State entities are required under the bill to take specified actions regarding language access compliance programs and may incur additional costs to do so. Furthermore, this fiscal and policy note does not account for expenditures that may be incurred beyond those estimated with the *minimal* staffing costs represented above (such as costs to establish and implement a language access plan and costs for an increased use of translation services). For example, DNR anticipates significant costs associated with erecting one metal sign (at an individual cost of \$1,500) at each of its 1,166 sites, totaling \$1.75 million in fiscal 2025. For additional context, MSDE anticipates an additional \$150,000 in contractual costs annually, reflecting an anticipated increase in the use of translation services. DPSCS also reports the possibility for significant additional costs to provide additional translation services at correctional facilities and offices, *potentially* exceeding \$1.0 million annually, depending on demand and implementation.

Additional Comments: This estimate assumes that the guidance document language in the bill is interpreted to be a reference regarding existing State and federal laws and is not interpreted to impose any additional obligation on third party contractors.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1144 of 2023.

Designated Cross File: None.

Information Source(s): Department of Commerce; Maryland Commission on Civil Rights; Maryland Department of Aging; Office of the Attorney General; Comptroller's Office; Maryland State Department of Education; Maryland Department of Agriculture; Maryland Department of Disabilities; Maryland Department of Health; Maryland Department of the Environment; Department of Housing and Community Development; Department of Human Services; Department of Juvenile Services; Maryland Department of Labor; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Veterans Affairs; Department of Legislative Services

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