



**TESTIMONY SUBMITTED TO
HOUSE STATE GOVERNMENT COMMITTEE
BY ANDY HOOVER, LEGISLATIVE DIRECTOR, ACLU OF PENNSYLVANIA
RE: OPPOSITION TO HOUSE BILL 1506 (WARNER)
STATE CAPITOL, HARRISBURG
SEPTEMBER 21, 2015**

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Chairman Metcalfe, Chairman Cohen, and members of the committee, thank you for the opportunity to testify today on House Bill 1506. Founded in 1920, the ACLU is one of the nation's oldest civil rights organizations. I am here today on behalf of the 23,000 members of the American Civil Liberties Union of Pennsylvania.

House Bill 1506 would declare English as the official language of the commonwealth of Pennsylvania, would require English-only in government actions with limited exceptions, and would prohibit appropriations from the General Assembly for activities that show a "preference" for a language other than English. This type of legislation conflicts with our basic American values of fairness, free speech and equal protection under the law. The message sent by this bill is one of hostility toward residents of Pennsylvania who do not speak English. The ACLU of Pennsylvania opposes HB 1506.

One of the challenges in analyzing this type of legislation is determining how to measure the impact if it is passed and implemented. We know that there are some legal requirements to provide government services in languages other than English. We also know that sometimes government agencies at both the state and local level make policy decisions to offer services in other languages because it allows the agency to operate more efficiently in its interactions with residents of the commonwealth. And HB 1506 acknowledges some of these scenarios with the exceptions in section 8 of the bill.

It is more difficult to measure what is often referred to as the "chilling effect" in free speech jurisprudence. When speech is legislated, does that deter people from speaking in order to avoid conflicts with the law? For example, would a public school opt not to use an interpreter at a back-to-school night with a law like this? According to testimony submitted by the New Sanctuary Movement, parents with limited English proficiency already are underserved by their schools, so HB 1506 could make a bad situation worse.

Would a police department decide not to print informational materials for residents in languages other than English? The supporters of HB 1506 may point to the exceptions in section 8, but one can certainly understand why a public official might err on the side of caution.

On Wednesday, in the Amtrak station in Elizabethtown, Lancaster County, I noticed the Department of Labor and Industry's new poster that raises awareness of the National Human Trafficking Resource Center Hotline. The poster was bilingual, with English text prominent

in the top two-thirds of the document and with Spanish text below it.¹ To be clear, the department is required by state law to post the notice in languages other than English, a provision that was part of the trafficking reform legislation passed recently by the General Assembly. Thus, I am not suggesting that the poster would be illegal if HB 1506 is passed.

However, if the department had chosen to print those posters in languages other than English as a matter of policy, without a statutory requirement, would it run afoul of HB 1506? The legislation includes an exception for “public safety, health, or justice,” but that provision is vague and leaves the discretion to the public official to determine if their action falls into the exception.

House Bill 1506 has the potential to cause great confusion and inadvertent mistakes among public safety and justice officials in the commonwealth, and that confusion and those mistakes could lead to miscarriages of justice. House Bill 1506 is specific in defining “official acts of government.” It includes “(a)ctions of the Commonwealth and of its political subdivisions that carry the full weight and authority of the law” and “tax records, professional licenses, deeds, real estate records, publicly probated wills and other documents of the court systems and public proceedings of the governing bodies of the Commonwealth and its political subdivisions.”

And yet Title VI of the federal Civil Rights Act specifically prohibits discrimination by state and local entities against persons based on national origin and limited English proficiency. In a guidance issued by the Department of Justice on Title VI and its supporting regulations, the department specifically cited jurisdictions with “English as the official language” laws or ordinances and was clear that agencies that receive federal funding are forbidden from discriminating against people based on their language skills.² As an example, the guidance described a victim of domestic violence who speaks Spanish but not English. It clarified that the local police department is compelled to help her or risk the loss of federal funds.

The guidance was also clear that Title VI applies not only to public safety entities but to all agencies that receive federal funds.

Supporters of HB 1506 would likely point to the exceptions (1) and (2) in Section 8 of the bill regarding federal law and “public safety” and “health,” and that would be a reasonable argument. In fact, that is probably the exact intent of that exception. However, the mere passage of HB 1506 risks confusion among agencies. At the least, these agencies would require training to understand when the Civil Rights Act applies and when, if ever, the English-only act applies.

Section 9 of the bill also prohibits the use of an appropriation from the General Assembly “to promote the use of or demonstrate a preference for any language other than the official language(.)” State agencies have made decisions to offer information and services in languages other than English, and those services would be endangered

¹ English and Spanish versions of the poster are available at <http://www.portal.state.pa.us/portal/server.pt?open=514&objID=613081&mode=2>.

² More information is available at <http://www.lep.gov/13166/eo13166.html>.

by HB 1506. For example, the Department of State's website to promote voting, VotesPA.com, includes a Spanish section. The federal Voting Rights Act requires that registration materials and ballots are available to non-English speakers when the population of speakers of a language in a county reaches a minimum threshold. The department has gone further by providing voting information in Spanish to all Pennsylvanians, regardless of whether their county reaches the minimum threshold in the VRA. This type of common sense policy could be endangered by HB 1506.

Debates over language are nothing new in Pennsylvania, and the commonwealth has a rich history of language diversity. The Declaration of Independence was read in both English and German on the streets of Philadelphia outside the Pennsylvania statehouse, and the Articles of Confederation were published in German. German culture was so prevalent in early Pennsylvania that Benjamin Franklin complained that the new residents would "Germanize us, rather than us Anglifying them" and claimed that Pennsylvanians of German ancestry "will never adopt our language or customs(.)"³

As a descendent of those Germans who worried Franklin so much, I am here to tell you that Franklin was wrong, we integrated, and English survived in Pennsylvania.

The burden of proving the need for this legislation is on its sponsors. There is no evidence that English is in any danger of extinction in Pennsylvania, in the United States, or around the world. According to data from the United States Census Bureau, 4.4 percent of Pennsylvanians are unable to speak English.⁴ Another 13.3 percent of Pennsylvanians speak English but "not well," as the Census Bureau describes it. Ten percent of Pennsylvanians live in a home where a language other than English is spoken. While pushes for English-only policies typically target Spanish speakers, 95 percent of Hispanics believe that it is "essential" that their children learn English, according to a 2011 survey by the Pew Research Center.⁵ Eighty seven percent of those surveyed believe that immigrants need to learn English to succeed in the United States.

This data tells multiple stories. First, the number of people in the commonwealth who are not fluent in English is low enough that the language that has dominated this country since its founding is not going away anytime soon. The implication of this bill that English is in some kind of danger is not supported by the facts. Two, there are enough residents of Pennsylvania with little or no English skills- approximately two million- that it makes sense that government agencies will sometimes offer services in languages other than English. HB 1506 could end the ability of government agencies to do that in many instances. Three, Hispanic immigrants already recognize the value of learning English and do not need a law to tell them.

After several attempts to pass this legislation, it is clear that there is consensus among both supporters and opponents of the bill that mastering the English language is an important skill set for newcomers to our commonwealth. Advocates who work directly with these communities and education experts have consistently bemoaned the shortage

³ *Observations concerning the increase of mankind, peopling of countries, etc.* Cited at <http://itre.cis.upenn.edu/~myl/languagelog/archives/000897.html>.

⁴ Available at <https://www.census.gov/prod/2013pubs/acs-22.pdf>.

⁵ Available at <http://www.pewhispanic.org/2012/04/04/iv-language-use-among-latinos/>.

of programs to assist people with limited English proficiency. In order to fulfil the finding in HB 1506 that “the Commonwealth and its municipalities and the Federal Government also have a responsibility to ensure that citizens have opportunities to learn English(,)” the most practical solution the General Assembly can pursue to promote the language is the bolstering of community-based and school programs that teach English as a second language. HB 1506 is a statement that could cause confusion among state and local officials. ESL programs, on the other hand, provide a path to achieving the desires of the bill’s supporters in a way that is supportive of non-English speakers without denouncing them for speaking their native tongue.

To conclude, the ACLU of Pennsylvania welcomes discussion about ways to integrate and support the commonwealth’s foreign-born population. Unfortunately, HB 1506 could be the legislative equivalent to the window sign that demands, “Speak English!” We encourage the members to oppose this bill.

Chairman Metcalfe, thank you for the opportunity to present my testimony.