

MEMORANDUM OF OPPOSITION
S.920 (Cooney) and A.1684 (Woerner)

The New York Association on Independent Living (NYAIL) is a statewide membership association that represents the interests of Independent Living Centers and the people with disabilities they serve. NYAIL leads statewide Independent Living Center efforts to eliminate physical, communication, attitudinal, and other barriers to all aspects of life for people with disabilities. NYAIL strongly opposes S.920 / A.1684 which would amend the NYS Executive Law to put additional burdens on blind and deaf people trying to access inaccessible websites. It has been well established through the courts for many years now that under the Americans with Disabilities Act, websites need to be accessible to people with disabilities. It is incumbent upon business owners to make their websites accessible as part of doing business.

S.920 / A.1684 forces blind or deaf people to notify a business owner, via certified mail, that their websites are inaccessible. This process is burdensome and costly to the individual making the complaint.

This bill does not spell out what makes a website accessible. Under this bill, business owners get to decide whether their websites are accessible. Further, it puts the onus on the blind or deaf person to identify each inaccessible feature. This is inappropriate. While an individual may be able to identify the features on the website that does not work for them, they are not testers. Further, one inaccessible feature on a website or mobile application can prevent the individual from even being able to test the rest of the site.

S.920 / A.1684 removes any incentive to ensure websites or mobile applications are accessible. If passed, the business owner can simply wait until they receive a complaint to do anything about their website. These features should be included when the website or application is developed.

Further, the U.S. Department of Justice released guidance on March 18, 2022 to state and local governments and businesses open to the public to ensure websites are accessible to people with disabilities. The guidance was intended to ensure the public understands how to make their websites accessible to people with disabilities. This information is readily available and the responsibility of the business owner to comply.

For all the reasons above, NYAIL strongly opposes S.920 / A.1684.