

Court interpreters in Wisconsin

Limited English proficiency:

- means the inability to adequately hear, understand or communicate effectively in English in a court proceeding. Wis. Stats. §885.38(1)(c). Many people communicate at a basic level at work or in the community, but court participation requires more sophisticated skills.
- limited English proficiency may be due to a non-English native language or due to speech impairment, hearing loss, deafness or other disability.
- to participate effectively in court, a person must be able to describe events and conversations, request clarification, understand the implications of testimony, and understand the judgment & conditions imposed.
- to test for limited English proficiency, the court should ask open-ended questions that require complete sentences as answers, and ask about common legal terms that most native English speakers understand.

In all criminal and civil proceedings:

- if the person has limited English proficiency as defined above, or if court determines that the person needs an interpreter to communicate with counsel, understand English testimony, or be understood in English;
- then court shall advise person of right to a qualified interpreter. §885.38(3)(a). This determination does not require an elaborate hearing.
- an interpreter shall be appointed at public expense if the person is a party; a witness while testifying, a crime victim, a parent of a minor party, a legal guardian, or another person affected by the action if deemed necessary & appropriate by the court. §885.38(3)(a).

Other situations:

- the court may appoint an interpreter in additional proceedings. §885.38(3)(e)&(f).
- the court must appoint if the need for an interpreter is due to a disability under the Americans with Disabilities Act (ADA).
- the court should appoint if the court receives federal funds for court programs.
- the clerk of circuit court may appoint interpreters for questions at the counter. §885.38(3)(d).

A qualified interpreter:

- is able to readily communicate with the person of limited English proficiency.
- can orally transfer the meaning of statements between languages.
- can interpret without omissions or additions, conserving the meaning, tone, & style of the original statement, including dialect, slang, & specialized vocabulary. §885.38(1)(c).
- the court must establish interpreter's qualifications as an expert witness and swear the interpreter in. §906.04. The court should ask interpreters about their experience, training, and certification.

- good interpreters will know the code of ethics for court interpreters, will attend trainings offered by the court, and will pursue continuing education.
- a “certified” interpreter has attended a 2-day orientation; passed a written examination; passed a rigorous oral performance exam given by the director of state courts office (or has been granted reciprocity for passing a similar exam given by the federal courts, another state, or the Registry of Interpreters for the Deaf); has met a character and fitness requirement; and has signed an oath to abide by the Interpreter Code of Ethics.

Court interpreter code of ethics:

- interpreters should review the file prior to court proceedings. SCR Ch. 63.
- interpreters should talk briefly with the person of limited English proficiency to be sure communication is established.
- interpreters should suggest the best position in courtroom.
- interpreters should clarify statements, correct mistakes, and check dictionaries.
- interpreters may not explain court procedures or documents. They can read documents but cannot explain or answer questions about them.
- interpreters may not act as advocates or advisers. The judge should instruct the parties, attorneys, and jurors on the role of the interpreter.
- judges and attorneys should observe interpreters to make sure all statements are interpreted but no conversation is going on.

Recommended practices:

- use the best-qualified interpreter available, taking into account the seriousness of the proceeding. Certified interpreters should be called first whenever available.
- do not use friends or relatives of the parties as interpreters for any serious questioning. In court, do not use social workers, victim advocates, law enforcement officers, or others with real or apparent conflicts of interest.
- speak clearly, at a moderate pace, one person at a time.
- provide rest breaks as needed, since interpreter accuracy declines significantly after 30 minutes of continuous interpretation. Consider using two interpreters for trials and longer contested proceedings over four hours.
- telephone interpreting services may be used for proceedings other than trials. §§807.14, 967.09.
- court staff should be aware of which court forms have been translated and make them available to appropriate court users.

Summary provided by Wisconsin Director of State Courts Office, January 2004 and updated in October 2008. For more information on using court interpreters, see Wisconsin Judicial Criminal Benchbook Chapter 2. For the full text of the statutes and rules affecting court interpreters and for more information about the program, see:

Wisconsin Court Interpreter Program
<http://wicourts.gov/services/interpreter/index.htm>