MISSOURI JUDICIAL BRANCH

Bench Card: Courtroom Interpreting

WHO IS ENTITLED TO A FOREIGN LANGUAGE INTERPRETER?

The courts shall appoint a qualified interpreter in all legal proceedings in which the non-English speaking person is a party or a witness. §476.803, RSMo.

If a request for an interpreter has not been made, but it appears a party or witness has limited English proficiency and may not understand the proceeding, you may ask the following questions on the record to determine if an interpreter is needed.

Determining Party's Language Proficiency

1. Please describe when, where and how you learned English.
2. How comfortable are you in proceeding with this matter in English?
3. In what language do you feel most comfortable speaking and communicating?
4. Would you like the court to provide an interpreter in that language to help you communicate and to understand what is being said?
5. Do you read and write English? Please tell us the last book, magazine and/or newspaper you read in English.
6. How did you come to court today?

If the person has difficulty answering these simple questions, or if the court cannot understand the person's spoken English, an interpreter is *recommended*. Presumably, a person unable to answer these questions is unable to communicate well in high-stress matters involving legal terminology.

HOW DO I SCHEDULE AN INTERPRETER FOR MY COURT?

Your court's limited English proficiency coordinator, court administrator or clerk is responsible for scheduling interpreters for your court. If there is no local interpreter available to appear in-person at your court, remote interpreting by phone or video-conference from another location, can be scheduled.

HOW DO I KNOW IF AN INTERPRETER IS QUALIFIED?

Being bilingual does not qualify a person to interpret. It is recommended that you not use friends, relatives, parties to the case, social workers, victim advocates, law enforcement officers, or attorneys as interpreters during court proceedings.

It is *recommended* that courts use certified or registered interpreters who have proven their proficiency. A **certified** interpreter has passed a written exam as well as an oral certification exam in English and a foreign language. A **registered** interpreter is an interpreter that has passed an English written exam and an oral proficiency interview in English and a foreign language as no oral certification exam exists for their foreign language.

If a certified or registered interpreter is not available, courts may use a qualified interpreter. Pursuant to §476.800, RSMo., a qualified interpreter is defined as "an impartial and unbiased person who is readily able to render a complete and accurate interpretation or translation of spoken and written English for non-English speaking persons and of non-English oral or written statements into spoken English."

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SAMPLE VOIR DIRE FOR DETERMINING INTERPRETER QUALIFICATIONS

Interpreting requires specialized knowledge (legal terms in both languages, slang, idioms, dialectal variations) and skills (memory, comprehension, and multi-tasking). Some inquiry should be made on the record to assure proficiency of an interpreter to ensure qualifications and absence of bias. Fundamental questions, such as the following, might be asked before administering the oath:

– **What training do you have as an interpreter?**
– **How did you learn English/foreign language?**
– **How many times have you interpreted in court?**
– **How long have you been an interpreter?**
– **Are you a potential witness in this case?**
– **Are you related to or friends with anyone in this case?**

OATH OF INTERPRETATION

All interpreters should be sworn-in on the record. Placing the interpreter's appearance on the record underscores the importance of adhering to the principles of good court interpreting. After you determine the person is qualified to interpret, administer the oath below.

> "Do you solemnly swear that you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the code of ethics for court interpreters, follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?"

HOW CAN I FACILITATE COMMUNICATION IN AN INTERPRETED PROCEEDING?

- Recognize that court proceedings can be confusing and intimidating for a limited English proficient individual since other countries' legal systems and concepts often vary from those of the United States.
- Advise everyone in the courtroom of the presence and role of the interpreter.
- Instruct all participants to speak loudly and clearly and allow only one person to speak at a time.
- Speak directly to the party or witness, not to the interpreter. Do not ask the interpreter to explain or restate anything said by the party. Always direct the interpreter to interpret in the first person in order for the record to be accurate.
- The interpreter is constantly working to convey all questions, answers and courtroom dialogue. Advise the interpreter to notify the court when breaks are needed.
- In order to reduce interpreter fatigue and maintain accuracy of the interpretation, schedule two interpreters for an event scheduled for more than two hours.

THE INTERPRETER'S ROLE

To assure that all participants understand the role of the interpreter, consider reading the following language at the start of the court proceeding:

> "I want you to understand the role of the interpreter. The court interpreter is a neutral party who is here only to interpret the proceedings and facilitate communication. The interpreter will interpret only what is said without adding, omitting or summarizing anything. The interpreter will interpret everything that is said in this courtroom."