



MINNESOTA JUDICIAL BRANCH

Bench Card: Courtroom Interpreting

How Do I Determine Whether A Person Needs An Interpreter?

Presume a need for an interpreter when an attorney or litigant indicates a party or a witness requests one. If a request is not made for an interpreter, but it appears a party/witness has limited English proficiency, a judge should ask questions **on the record** to assess the need for an interpreter.

Sample questions for determining the English Proficiency of a person and the need for an interpreter:

(Avoid questions easily answered with yes or no replies.)

- How did you come to court today?
- How did you learn English, and what is most difficult about communicating in English?
- Please tell me about your country.
- Tell me more about your country.
- Describe what you see in this courtroom.
- What is the purpose of your court hearing today?
- **You have the right to a court-appointed interpreter.** Tell the court the best way to communicate with you and to let you know what is being said.

If the person has difficulty answering these simple questions, an interpreter is recommended. Presumably, a person unable to answer these questions is unable to communicate well in high-stress matters involving legal terminology.

The court may also consider the following factors in determining the need for an interpreter:

the complexity of the proceedings, the person's mispronunciations, pauses, facial expressions, gestures, comprehension of proceedings, and communications with counsel. *State v. Cham*, 680 N.W.2d 121 (Minn. Ct. App., 2004).

Also, if the court cannot understand the person's spoken English, consider using an interpreter. Request that the person speak in their native language, so that the interpreter can interpret into English.

Court Required to Provide / Pay for Interpreter?

Foreign Language: Defendants/parties and testifying witnesses. Minn. Stat. § 611.32 subd. 1, and applicable Minnesota Rules of Criminal Procedure; Minn. Stat. §546.43, and Minn. R. Civ. P. 43.07.

Deaf Persons: Interpreters (or other accommodations) must be provided for deaf persons in their full utilization of the courts (i.e. parties, witnesses, observers, jurors, etc.) Minn. Stat. §363A.12, subd. 1.

Court's Discretion to Provide / Pay for Interpreter

There may be a need for the court to exercise discretion to appoint an interpreter for nonparties with substantial stake in the outcome who demonstrate an interest to actively participate in a case, and such participation is legally permissible. For example: participants in CHIPS, TPR, and permanency cases. (Consult with court administration prior to appointing interpreter to verify that another agency is not responsible to provide/pay for interpreter.)

Preference for Certified Interpreters

Foreign language: (1) courts must make diligent efforts to appoint a certified interpreter. (2) If none is available, the court must appoint one from the Court Interpreter Roster. (3) If none is available from the Roster, the court may appoint an otherwise qualified interpreter. Rules of Practice for the Dist. Courts, 8.02 (a), (b), and (c).

Sign language: (1) courts must make diligent efforts to appoint a legally certified (SC:L) interpreter. (2) If none is available, the court may hire one with a generalist certification from the Roster. Rules of Practice for the Dist. Courts, Rule 8.02 (d).

Sample Qualification Questions:

- Are you certified? If you are not certified, are you on the Court Interpreter Roster?
- Is your dialect compatible with Mr./Ms. _____?
- Are there any cultural or community concerns between you and Mr./Ms. _____ that the court should be aware of?
- What is your experience interpreting in court?
- Have you ever interpreted for any of the people involved in this case?
- Are you able to remain fair and impartial?
- **To the parties:** Does either party have any questions for the interpreter?

Interpreter Oaths

According to the **Rules of Evidence**, an interpreter should be **qualified as an expert**, and administered an **oath**. MN R. Evid. 604.

For Defendants: Do you swear (affirm) that you will accurately translate to the defendant in understandable language all that is said during this proceeding and that you will repeat in English to the Court all statements made by the defendant. So help you God (not used in affirmation).

For Witnesses: Do you swear (affirm) that you will truthfully and impartially interpret to this witness the oath about to be administered, and the testimony the witness shall give relative to the cause now under consideration. So help you God (not used in affirmation).

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

Before we proceed any further, I would like to make a few comments regarding the interpreter's role in today's proceedings.

The interpreter can only interpret for one person at a time. Therefore, please do not speak or interrupt while someone else is testifying or speaking. The interpreter can only interpret testimony that is spoken. All responses given here must be verbal. You are reminded to speak at a slower but steady pace, and make eye contact occasionally with the interpreter to gauge whether your pace is appropriate. A slower pace is especially important when stating dates, numbers, figures or highly technical vocabulary.

As for the interpreter(s), you are bound by the Code of Professional Responsibility for Interpreters in the Minnesota State Court System, and you are expected to follow its canons. You must interpret everything that is said in this courtroom, including this information. You are not allowed to engage in any conversation with the litigant/defendant/witness. You are not allowed to give any legal advice, or express personal opinions about this matter to the litigant/defendant/witness. You are expected to maintain confidentiality and not publicly discuss this case. If for some reason you need to pause the proceedings so that you can refer to a dictionary, please raise your hand and speak up.

Are there any questions or concerns?

Tips for Communicating Through Interpreters:

- Instruct all participants to speak loudly and clearly and to speak one at a time.
- Allow the interpreter to converse briefly with the non-English speaker to ensure understanding of accents, dialect or pronunciation differences.
- Speak directly to the non-English speaking person.
- Don't ask the interpreter to independently explain/restate anything said by the party.
- The interpreter must convey all questions, answers and courtroom dialogue, and therefore, is constantly working. Advise the interpreter to notify the court when breaks are needed.
- Allow the interpreter to review the court file prior to the hearing, to become familiar with names, dates and technical vocabulary.
- Monitor the interpreter so that side conversations aren't held with the non-English speaking person.
- Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the U.S.

For jury trials, remember to use the interpreter jury instructions, which clarify the role of an interpreter: **Crim JIG 2.05**, **Civ JIG 10.15**.

For trials and other long proceedings, court administration should hire a team of two interpreters who will alternate interpreting approximately every twenty minutes.

For additional assistance, please contact:

(Insert county-specific contact info here using a mailing label)

Minnesota Court Interpreter Program at
651-205-4206 or cip@courts.state.mn.us or
www.mncourts.gov/interpreters