



ILLINOIS JUDICIAL BRANCH

Bench Card: Courtroom Interpreting

How Do I Determine Whether A Person Needs An Interpreter?

Presume a need for an interpreter upon the request of a limited English proficient (LEP) person or his or her attorney or advocate. If a request is not made for an interpreter, but it appears a party or witness has limited English proficiency, a judge should ask questions **on the record** to assess the need for an interpreter for any legal proceeding.

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.)

- What is your name?
- How long have you been in the United States?
- How did you learn English?
- What papers did you bring to Court today?
- Do you know why you are in Court today?

You may 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. Also, **if the court cannot understand the person's spoken English**, consider using an interpreter. Request that the person speak in her or his native language, so that the interpreter can interpret into English.*

According to Illinois case law, a need for interpreter services will be found when "it appears from the record that the witness was not 'understandable,' 'comprehensible' or 'intelligible' such that the lack of an interpreter deprived the defendant of a basic right." *People v. Bragg*, 68 Ill. App. 3d 622, 630 (1979).

Text in shaded boxes are example scripts for reading into the record.

Court Required to Provide an Interpreter?

Counties are responsible for the arrangement and compensation of interpreters.

Court is required to appoint an interpreter in criminal proceedings for limited English proficient (LEP) defendants in misdemeanor and felony cases via a written order. Criminal Proceeding Interpreter Act, 725 ILCS 140/2.

Court is required to appoint an interpreter in civil proceedings for LEP parties and witnesses via a written order. Code of Civil Procedure, 735 ILCS 5/8-1403.

Court is required to provide a qualified sign language interpreter for deaf and hard of hearing persons who are involved in any legal proceeding as a litigant, witness, victim, or juror. Code of Civil Procedure, 735 ILCS 5/8-1402.

Court should appoint an interpreter for LEP parties and witnesses for any legal proceeding, including criminal and civil cases, and any court-annexed proceeding such as mediation or arbitration. Illinois Supreme Court Language Access Policy, effective Oct. 1, 2014.

Once appointed, what type of interpreter to appoint?

- (1) Courts must make reasonable efforts to appoint a certified foreign language interpreter from the AOIC Interpreter Registry ("Registry").
- (2) If none is available, the court must appoint a "registered" interpreter from the Registry.
- (3) If none is available from the Registry, the court may appoint an unregistered interpreter and must examine the interpreter in open court to ensure minimum qualifications and impartiality. Illinois Supreme Court Language Access Policy, effective Oct. 1, 2014.

Sample Qualification Questions:

- Are you certified? If you are not certified, are you on the AOIC Interpreter Registry?
- Is your dialect compatible with Mr./Ms. _____?
- Do you understand that as an interpreter you must interpret everything, and that you may not summarize the testimony or other proceedings?
- 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 **Illinois state statute**, an interpreter must be **sworn to truly interpret** in criminal and civil cases. Criminal Proceeding Interpreter Act, 725 ILCS 140/2; Code of Civil Procedure, 735 ILCS 5/8-1403.

According to **Supreme Court policy**, an interpreter must swear or affirm the following oath in open court before **any legal proceeding** or before interpreting for several legal proceedings in a court in one day, unless a signed oath is on file with the court:

Do you swear (or affirm) that you will make a true and impartial interpretation using your best skill and judgment in accordance with the standards prescribed by law and the Illinois Interpreter Code of Ethics and that you will repeat the statements of such person to the court and all statements made from English to the party's native language fully and accurately?

To ensure 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 Illinois Interpreter Code of Ethics, 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 with the non-English speaking person are eliminated.
- 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.

If the court expects the hearing or trial to last for several hours or days, the court may wish to appoint two interpreters. Due to the level of concentration required to accurately conduct a simultaneous interpretation, interpreters require frequent breaks. If the court appoints two interpreters, they can conduct a continuous interpretation by alternating, thereby allowing the court to conduct the proceedings without unnecessary delays or interruptions.

For Additional Assistance, please contact:

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