

# THE RIGHT TO AN INTERPRETER FOR THE DEAF AND HARD OF HEARING IN THE LEGAL SYSTEM

## I. What is a qualified interpreter?



### Legal Information

#### & Referral:

206-621-7691

#### Toll-Free:

1-866-259-7720

#### TTY:

206-521-4317

#### Web:

[www.LegalVoice.org](http://www.LegalVoice.org)

- An interpreter is considered to be "qualified" if:
  - They have obtained professional certification from a state commission or agency serving individuals who are Deaf, Hard of Hearing, or Deaf-Blind (there are no Washington State commissions or agencies that certify interpreters); **or**
  - They have obtained professional certification from the Registry of Interpreters for the Deaf (RID) or the National Association of the Deaf (NAD) at level 3, 4, or 5; **or**
  - They do not have state or RID certification, but they are able to accurately and effectively facilitate communication, using the necessary language (ASL, PSE, SEE, or Oral) between individuals who are Deaf and Hard of Hearing and individuals who are hearing or they do not have state or RID certification, but they are able to accurately and effectively translate the statements of people with speech impairments into spoken English, whichever the situation requires.
- The interpreter must be neutral:
  - The interpreter must not be a relative or friend of *anyone* involved in the proceeding or investigation.
  - The interpreter may not be an employee of law enforcement with responsibilities other than interpreting.
- If the interpreter is not qualified, the officer of the court *must* provide another interpreter.

Intermediary Interpreter: If the language of the Deaf or Hard of Hearing person is not easily interpreted, the interpreter or the client should tell the court and the court should appoint an intermediary interpreter to assist the qualified interpreter.

## II. When must the Court provide an interpreter?

Washington State Courts are required to provide interpreters for the following proceedings:

- Civil and Criminal Court Proceedings
- Grand Jury Proceedings
- Proceedings before a Magistrate
- Juvenile Proceedings
- Adoption Proceedings
- Mental Health Commitment Proceedings
- For Parents/Guardians of a minor in any civil or criminal justice proceeding, when the parent is Deaf or Hard of Hearing
- Court ordered activities or programs (drug and alcohol treatment, domestic violence or sex offender assessment or therapy, probation, settlement conference, mediation). If the court has a contract with an entity to provide a treatment program, then the court is responsible to ensure the interpreter service. If the referral is to any treatment facility, then the facility is responsible.
- Interviews as part of a criminal investigation (witness, victim, suspect)
- Arrest

Federal Court. The Judicial Conference of the Administrative Office of the United State Courts has adopted a policy that requires courts to provide, at judiciary expense, sign language interpreters or other appropriate auxiliary aids and services to Deaf and Hard of Hearing participants in court proceedings. The court shall give primary consideration to the participant's choice of auxiliary aid or service.

## III. When must a lawyer provide an interpreter?

- Lawyers *must* provide qualified interpreters or some form of acceptable auxiliary aids in order to communicate, explain facts, discuss options, and to understand and participate in their client's representation.
- The lawyer chooses the appropriate aid that will ensure effective communication. The lawyer *should* consult with the client as to which means is most effective and ask the client for preferred interpreters.
- The lawyer *cannot* charge the client for the interpreter.
- If the lawyer cannot pay for an interpreter, he/she must establish the inability to pay by showing there is an "undue burden" to the lawyer, that is, a significant difficulty or expense. This is decided on a case-by-case basis; there are a number of factors to take into consideration, including the cost of the accommodation and the overall financial resources of the lawyer.

- If an interpreter is an undue burden on the lawyer, then the lawyer must provide an alternate auxiliary aid that is not an undue burden (please find list of such aids below)
- If you have a public defender, the court is required to pay for interpreter services if you need to meet with your public defender outside of court.
- For some meetings, such as a deposition, the client may be charged the cost of an interpreter, just as they may be charged the cost of the court reporter. One expert on the Americans with Disabilities Act (ADA) argues that providing an interpreter for a deposition is a reasonable accommodation request and an access issue and that the attorney is responsible. Another feels that in some situations, a client would have to pay for an interpreter for a deposition; for example, if the plaintiff chose to attend the deposition of a witness for the defense, and the plaintiff's attorney raises an undue hardship claim. Common practice is for the party requesting the deposition to pay.

#### **IV. How to arrange for an interpreter for your court proceeding**

- King County Superior Court, Office of Interpreter Services:
  - 206-205-5048 (TTY) (Downtown Seattle)
  - 206-205-2655 (TTY) (Regional Justice Center - Kent)
  - 206-296-9358 (Voice) (Downtown Seattle)
  - 206-205-2519 (Voice) (Regional Justice Center – Kent)
- All King County District Courts: Call the District Court phone bank at 206-205-9200; after listening to the message, you may press \* to get in line to speak to a staff person. That person will pass your information on to the appropriate clerk who will then order an interpreter for you. You will need to give the clerk the following information: your name and telephone number; date and time of hearing; case name and number; and language needed (ASL, PSE, SEE, tactile, close vision, and/or Oral).
- Seattle Municipal Court: Contact Caesar Ramos at 206-684-5661. He provides interpreters ONLY for in-court proceedings.
- Emergency Sign Language Interpreter Program (ESLIP)-King County, for protection order hearings, for example. Contact Interpreter Referral Service at the Community Service Center for the Deaf and Hard of Hearing, 206-322-5551.
- Other Counties: Call your court clerk to find out how to arrange for an interpreter.

