

885.38 Interpreters in circuit and appellate courts.

(1) In this section:

(a) "Court proceeding" means any proceeding before a court of record.

(b) "Limited English proficiency" means any of the following:

1. The inability, because of the use of a language other than English, to adequately understand or communicate effectively in English in a court proceeding.
2. The inability, due to a speech impairment, hearing loss, deafness, deaf-blindness, or other disability, to adequately hear, understand, or communicate effectively in English in a court proceeding.

(c) "Qualified interpreter" means a person who is able to do all of the following:

1. Readily communicate with a person who has limited English proficiency.
2. Orally transfer the meaning of statements to and from English and the language spoken by a person who has limited English proficiency in the context of a court proceeding.
3. Readily and accurately interpret for a person who has limited English proficiency, without omissions or additions, in a manner that conserves the meaning, tone, and style of the original statement, including dialect, slang, and specialized vocabulary.

(2) The supreme court shall establish the procedures and policies for the recruitment, training, and certification of persons to act as qualified interpreters in a court proceeding and for the fees imposed for the training and certification, and for the coordination, discipline, retention, and training of those interpreters. Any fees collected under this subsection shall be credited to the appropriation under s. [20.680 \(2\) \(gc\)](#).

(3)

(a) If the court determines that the person has limited English proficiency and that an interpreter is necessary, the court shall advise the person that he or she has the right to a qualified interpreter at the public's expense if the person is one of the following:

1. A party in interest.
2. A witness, while testifying in a court proceeding.
3. An alleged victim, as defined in s. [950.02 \(4\)](#).
4. A parent or legal guardian of a minor party in interest or the legal guardian of a party in interest.
5. Another person affected by the proceedings, if the court determines that the appointment is necessary and appropriate.

(b) The court may appoint more than one qualified interpreter in a court proceeding when necessary.

(c) If a person with limited English proficiency, as defined in sub. [\(1\) \(b\) 2.](#), is part of a jury panel in a court proceeding, the court shall appoint a qualified interpreter for that person.

(d) If a person with limited English proficiency requests the assistance of the clerk of circuit courts regarding a legal proceeding, the clerk may provide the assistance of a qualified interpreter to respond to the person's inquiry.

(e) A qualified interpreter appointed under this subsection may, with the approval of the court, provide interpreter services outside the court room that are related to the court proceedings, including during court-ordered psychiatric or medical exams or mediation.

(f) A court may authorize the use of a qualified interpreter in actions or proceedings in addition to those specified in par. [\(a\)](#).

(4)

(a) The court may accept the waiver of the right to a qualified interpreter by a person with limited English proficiency at any point in the court proceeding if the court advises the person of the nature and effect of the waiver and determines on the record that the waiver has been made knowingly, intelligently, and voluntarily.

- (b) At any point in the court proceeding, for good cause, the person with limited English proficiency may retract his or her waiver and request that a qualified interpreter be appointed.
- (5) Every qualified interpreter, before commencing his or her duties in a court proceeding, shall take a sworn oath that he or she will make a true and impartial interpretation. The supreme court may approve a uniform oath for qualified interpreters.
- (6) Any party to a court proceeding may object to the use of any qualified interpreter for good cause. The court may remove a qualified interpreter for good cause.
- (7) The delay resulting from the need to locate and appoint a qualified interpreter may constitute good cause for the court to toll the time limitations in the court proceeding.
- (8)
- (a) Except as provided in par. (b), the necessary expenses of providing qualified interpreters to persons with limited English proficiency under this section shall be paid as follows:
1. The county in which the circuit court is located shall pay the expenses in all proceedings before a circuit court and when the clerk of circuit court uses a qualified interpreter under sub. (3)(d). The county shall be reimbursed in the manner determined by the director of state courts under s. [758.19](#) for expenses paid under this subdivision.
 2. The court of appeals shall pay the expenses in all proceedings before the court of appeals.
 3. The supreme court shall pay the expenses in all proceedings before the supreme court.
- [885.38\(8\)\(b\)](#)(b) The state public defender shall pay the expenses for interpreters assisting the state public defender in representing an indigent person in preparing for court proceedings.

History: [2001 a. 16](#); [2003 a. 33](#); [2007 a. 20](#); [2015 a. 55](#).

A court has notice of a language difficulty when it becomes aware that a defendant's difficulty with English may impair his or her ability to communicate with counsel, to understand testimony, or to be understood in English and does not hinge on a request from counsel for an interpreter. *State v. Yang*, [201 Wis. 2d 725](#), [549 N.W.2d 769](#) (Ct. App. 1996), [95-0583](#).

When an accused requires an interpreter and witnesses are to testify in a foreign language, the better practice may be to have 2 interpreters, one for the accused and one for the court. *State v. Santiago*, [206 Wis. 2d 3](#), [556 N.W.2d 687](#) (1996), [94-1200](#).

Fair trials require comprehension of the spoken word by parties, witnesses, and fact-finders. A witness's comprehension affects the analysis of whether a trial court cut off cross-examination prematurely. *State v. Yang*, [2006 WI App 48](#), [290 Wis. 2d 235](#), [712 N.W.2d 400](#), [05-0817](#).

The legislature intended for the courts to provide necessary interpreters for both the hearing impaired and for those of limited English proficiency regardless of their ability to pay. Courts may not tax the parties for these costs. [OAG 9-08](#).

Injustice in any Language: the Need for Improved Standards Governing Courtroom Interpretation in Wisconsin. Pantoga. 82 MLR 601 (1999).

Se Habla Everything: The Right to an Impartial, Qualified Interpreter. Araiza. Wis. Law. Sept. 1997.

New Interpreter Code of Ethics. Lamelas. Wis. Law. Mar. 2003.