

Wisconsin Interpreting & Translation Related Statutes, Rules and Case Laws

(updated 7-28-2018)

Disclaimer: This compilation of statutes, court rules, and case law has been provided for the convenience of the reader. It is not intended to be comprehensive. Where the law has been paraphrased or summarized, it does not represent the official position of the Wisconsin Supreme Court or Director of State Courts.

Federal Statutes and Regulations

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) and the ADA Amendments Act of 2008, 42 USC §§12101-12213, require that state and local government facilities, including courts, be accessible to individuals with disabilities and provide reasonable accommodations to qualified persons. The U.S. Department of Justice has published regulations implementing the ADA, found in 28 CFR Part 35. The regulations under ADA Title II require that courts and other public entities take "appropriate steps to ensure the communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others." (28 CFR 35.160(a)).

State and local governments are required to "furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an opportunity to participate in, and enjoy the benefits of, a service, program, or activity." 28 CFR 35.160(b)(1).

"Auxiliary aids and services" are defined in 28 CFR 35.104 to include:

- (1) Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
- (2) Qualified readers; taped texts; audio recordings; Brailled materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision;
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services and actions.

The ADA specifically calls for the use of "qualified" sign language interpreters. 42 USC §12102(1)(a). The regulations define "qualified" to mean "an interpreter who, via a video remote interpreting (VRI) service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language

transliterators.” 28 CFR 35.104. The ADA focuses on the interpreter's actual ability to make communication effective in a particular circumstance.

The regulations require that auxiliary aids and services be provided at public expense regardless of the disabled person's ability to pay. 28 CFR 35.130(f) provides: “A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the Act or this part.” The court may not charge any party with the cost of the interpreter.

Title VI of the Civil Rights Act of 1964

Section 601 of this act, 42 U.S.C. Section 2000d et. seq, provides that "No person in the United States shall on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The executive branch of the federal government has undertaken to improve compliance with Title VI with respect to language services. **Executive Order 13166** requires federal funding recipients to address the needs of persons who, due to limited English proficiency, cannot fully and equally participate in federally funded programs without language assistance. The U.S. Department of Justice (USDOJ) has issued policy guidance on the responsibility of courts to provide language services. The USDOJ guidance is posted at <http://www.usdoj.gov/crt/cor/13166.htm>.

The USDOJ has the right to investigate complaints against any agency that does not provide free language services when necessary to participate in the program. An agency's federal funding may be withheld until the complaint is resolved. Circuit courts with high limited English proficiency populations and courts that receive direct federal funding for court programs need to be particularly cognizant of the Title VI requirements. Under the guidance, if funding for increased services is limited, courts may provide interpreter services beginning with the most critical services and the most commonly used languages. Where important rights or personal safety are at stake, interpreters should be provided.

Court Interpreters Act

28 USC 1827 sets forth the requirements of the Director of the Administrative Office of the United States Courts to establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States. A defendant in a criminal action or a witness (while testifying) who speaks only or primarily a language other than the English language or suffers from a hearing impairment (whether or not suffering also from a speech impairment) in any criminal or civil action initiated by the United States in a U.S. District Court is entitled to interpreter services. This includes grand jury proceedings.

Federal Case Law

The right to an interpreter is not explicit in the United States Constitution. However, the constitutional right to an interpreter may arise under the Sixth Amendment as part of the right to counsel (effective communication between attorney and client), or as part of the right to confront witnesses. *United States ex rel Negron*, 434 F. 2d 386, 389 (2d Cir. 1970). The right may also arise under the due process clause of the Fifth and Fourteenth Amendments requiring that a defendant be

able to participate in his or her own defense. When a trial court has notice of a defendant's language deficiency, it is required to communicate clearly to the defendant the right to a competent interpreter, at government expense if the defendant is unable to afford one. The right to an interpreter may be waived only through intentional relinquishment or abandonment of a known right. *Id.*

Feruz Ememe v. John D. Ashcroft, Attorney General of the United States, 358 F.3d 446 (7th Cir. 2004). Without any assessment of Petitioner's language skills, the immigration judge's characterization of her testimony as not credible was not supported by reasonable, substantial and probative evidence. Feruz Ememe is an ethnic Oromo from Ethiopia whose first language is Amharic. She is in the United States seeking asylum on the basis of her ethnicity and her fear of government persecution. During her credible fear interview with an INS officer, Ememe had requested an Amharic interpreter, but it was determined that none was available. She was provided with an Italian interpreter and answered the questions in Italian. At Ememe's subsequent hearing in front of an immigration judge, she testified in Amharic and as the Court of Appeals noted, gave "verbose" testimony as opposed to her "constrained" testimony in Italian. The immigration judge denied her application for asylum deeming her testimony unbelievable, mainly because of perceived inconsistencies between her credible fear interview and her testimony at the immigration hearing. The Court concluded that without any attempt to determine her language proficiency, the testimonial inconsistencies, alone, did not provide adequate support for the conclusion that Ememe's testimony was not credible.

Wisconsin Statutes and Regulations

CH. 20: APPROPRIATIONS AND BUDGET MANAGEMENT: SUB-CHAPTER JUDICIAL

20.625 Circuit courts

There is appropriated to the director of state courts for the following programs:

(1) COURT OPERATIONS.

(cg) *Circuit court costs*. Biennially, the amounts in the schedule to make payments to counties for circuit court costs under s. [758.19 \(5\)](#).

(k) *Court interpreters*. The amounts in the schedule to pay interpreter fees reimbursed under s. [758.19](#). All moneys transferred from the appropriation account under s. [20.455 \(2\) \(i\) 16](#). shall be credited to this appropriation account. Notwithstanding s. [20.001 \(3\) \(a\)](#), the unencumbered balance on June 30 of each year shall be transferred to the appropriation account under s. [20.455 \(2\) \(i\)](#).

CH. 46: SOCIAL SERVICES

46.295 Interpreters for the hearing-impaired

(1) The department may, on the request of any hearing-impaired person, city, village, town or county, or private agency, provide funds from the appropriation under §20.435 (6) (a) and (hs) to reimburse interpreters for hearing-impaired persons for the provision of interpreter services.

(2) The department shall grant priority to requests to pay fees charged by interpreters for the following, in the following order:

(a) Emergencies.

(b) Medical, mental health, alcohol and drug abuse, psychiatric and psychological services.

(c) Legal services and civil court proceedings.

(d) Matters concerning law enforcement personnel.

(e) Matters concerning any federal, state, county, or municipal agency.

- (3) The department shall maintain lists of qualified interpreters under §885.37 (5) (b).
- (4) The department may use as an interpreter for hearing-impaired persons only the following:
- (a) An interpreter for hearing-impaired persons who is certified by the national registry of interpreters for the deaf.
 - (b) If an interpreter under par. (a) is unavailable, an interpreter for hearing-impaired persons whose qualifications have been determined appropriate by the department.
- (5) The department may bill any public or private agency at the rates established by the department for interpreter services for hearing-impaired persons commensurate with the certification or qualification level of the interpreter providing services if the department determines that the agency is required under state or federal law to provide interpreter services to a hearing-impaired person or if the agency agrees to pay for the services.
- (6) The department shall promulgate rules to implement this section.
- HFS 77 contains the regulation governing the provision of sign language interpreting services.

CH. 48: CHILDREN'S CODE

48.315 Delays, continuances, and extensions

- (1) The following time periods shall be excluded in computing time requirements within this chapter:
- (h) Any period of delay resulting from the need to appoint a qualified interpreter.

48.97 Adoption and guardianship orders of other jurisdictions.

- (2) Effect and recognition of foreign adoption decrees. If the adoption of a child who was born in a foreign jurisdiction and who was not a citizen of the United States at the time of birth was finalized under the laws of the jurisdiction from which the child was adopted and if the child was admitted to the United States with an IR-3 or IH-3 visa issued by the U.S. citizenship and immigration services, all of the following apply:
- (c) Within 365 days of a child being admitted to the United States, the adoptive parent shall submit a letter to the court requesting registration of the foreign adoption order. The parent shall include in the request all of the following:
 1. Evidence as to the date, place of birth, and parentage of the child.
 2. A certified or notarized copy of the final order of adoption entered by a court of the foreign jurisdiction and, if that final order is not in English, a certified translation or a notarized copy of a certified translation of that final order.

CH. 62: CITIES

62.05 Classes of cities

- 62.05(1) Cities shall be divided into 4 classes for administration and the exercise of corporate powers as follows:
- (a) Cities of 150,000 population and over shall constitute 1st class cities.

CH. 180: BUSINESS CORPORATIONS – General Provisions

180.0120 Filing Requirements

- (1) Except as provided in sub. (4), a document required or permitted to be filed under this chapter with the department must satisfy all of the following requirements to be filed under s. [180.0125 \(2\)](#) (a):
- (a) Contain the information required by this chapter, although it may also contain other information.
 - (c) Be in the English language, except that:
 1. A corporate name need not be in English if it is written in English letters or Arabic or Roman numerals.

2. The certificate of status, or similar document, required of a foreign corporation need not be in English if accompanied by a reasonably authenticated English translation.

CH. 181: NON-STOCK CORPORATIONS

181.0120 Filing requirements.

(1) General Requirements. Except as provided in sub. (4), a document required or permitted to be filed under this chapter with the department must satisfy all of the following requirements to be filed under s. [181.0125 \(2\) \(a\)](#):

(a) Contain the information required by this chapter, although it may also contain other information.

(c) Be in the English language, except that:

1. A corporate name need not be in English if it is written in English letters or Arabic or Roman numerals.

2. The certificate of status, or similar document, required of a foreign corporation need not be in English if accompanied by a reasonably authenticated English translation;

CH. 181: LIMITED LIABILITY CORPORATIONS

183.0108 Filing requirements.

(1r) Except as provided in sub. (3), to be filed under s. [183.0110](#), a document required or permitted to be filed under this chapter with the department shall satisfy all of the following requirements:

(a) Contain the information required by this chapter.

(b) Be in the English language, except that a limited liability company name need not be in English if it is written in English letters or Arabic or Roman numerals, and the application for registration required of a foreign limited liability company need not be in English if it is accompanied by a reasonably authenticated English translation.

CH. 244: UNIFORM POWER OF ATTORNEY FOR FINANCES AND PROPERTY

244.19 Protection of persons that accept and rely upon an acknowledged power of attorney.

(5) An English **translation** of an opinion of counsel requested under this section must be provided at the principal's expense.

244.20 Refusal to accept acknowledged power of attorney.

(1) A person may, in good faith, refuse to accept an acknowledged power of attorney within 10 business days of presentment if any of the following applies:

(a) The person is not otherwise required to engage in a transaction with the principal in the same circumstances.

(b) Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal or state law.

(c) The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power of attorney.

(d) A request for a certification, a **translation**, or an opinion of counsel under s. [244.19 \(4\)](#) is refused.

(e) The person believes that the power of attorney is not valid, that the agent does not have the authority to perform the act requested, or that the person presenting the power of attorney is not the agent named in the power of attorney, whether or not a certification, a **translation**, or an opinion of counsel under s. [244.19 \(4\)](#) has been requested or provided.

(3) If a person requests a certification, a **translation**, or an opinion of counsel under s. [244.19 \(4\)](#), the person shall accept the power of attorney no later than 5 business days after receipt of the certification, translation, or opinion of counsel, provided that there is no other good faith reason to refuse under sub. (1).

(4) It is not a refusal to accept an acknowledged power of attorney if any of the following applies:

- (a) The person requests but does not require that an additional or different power of attorney form be used.
- (b) The person has requested but has not received a certification, a **translation**, or an opinion of counsel under s. [244.19 \(4\)](#).

CH. 440: DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

440.032 Sign language interpreting.

(1) Definitions. In this section:

- (a) "Client" means a deaf or hard of hearing person for whom a person provides interpretation services.
- (b) "Council" means the sign language interpreter council.
- (c) "Support service provider" means an individual who is trained to act as a link between a person who is deaf and blind and the person's environment.
- (d) "Wisconsin interpreting and transliterating assessment" means a program administered by the department of health services to determine and verify the level of competence of communication access services providers who are not certified by the Registry of Interpreters for the Deaf, Inc., or its successor, the National Association of the Deaf or its successor, or other similar nationally recognized certification organization, or a successor program administered by the department of health services.

(2) License required.

- (a) Except as provided in pars. (b) and (c), no person may, for compensation, provide sign language interpretation services for a client unless the person is licensed by the department under sub. (3).
- (b) No license is required under this subsection for any of the following:
 1. A person interpreting in a court proceeding if the person is certified by the supreme court to act as a qualified interpreter in court proceedings under s. 885.38 (2).
 2. A person interpreting at any school or school-sponsored event if the person is licensed by the department of public instruction as an educational interpreter.
 3. A person interpreting at a religious service or at a religious function, including educational or social events sponsored by a religious organization. This subdivision does not apply to a person interpreting for a religious organization at a professional service provided or sponsored by the religious organization.
 4. A support service provider interpreting for the purpose of facilitating communication between an individual who provides interpretation services and a client of the individual.
 5. A person who, in the course of the person's employment, provides interpretation services during an emergency unless the interpretation services are provided during a period that exceeds 24 hours.
- (c)
 1. The council may grant a temporary exemption to an individual who is not a resident of this state that authorizes the individual to provide interpretation services for a period not to exceed 20 days, if the individual is certified by the Registry of Interpreters for the Deaf, Inc., or its successor, or the National Association of the Deaf or its successor. The council may not grant an individual more than 2 temporary exemptions under this subdivision per year.
 2. The council may grant a temporary or permanent exemption to an individual who is a resident of this state that authorizes the individual to provide interpretation services for a period specified by the council or for persons specified by the council.

(3) Licensure requirements.

(a) Renewable licenses.

1. The department shall grant a license as a sign language interpreter to an applicant who submits an application on a form provided by the department, pays the fee determined by the department under s. 440.03 (9) (a), and submits evidence satisfactory to the department that the applicant has received an associate degree in sign language interpretation or has received a certificate of

completion of an education and training program regarding such interpretation, and the applicant has one of the following:

- a. Any valid certification granted by the Registry of Interpreters for the Deaf, Inc., or its successor.
- b. A valid certification level 3, 4, or 5 granted by the National Association of the Deaf or its successor.
- c. Any valid certification granted by any other organization that the department determines is substantially equivalent to a certification specified in subd. 1. a. or b.

2. The department shall grant a license as a sign language interpreter to an applicant who submits an application on a form provided by the department and pays the fee determined by the department under s. 440.03 (9) (a), if the applicant has a certification specified in subd. 1. a. and if the applicant provides to the department satisfactory evidence of a diagnosis by a physician that the applicant is deaf or hard of hearing.

3. The department shall grant a license as a sign language interpreter to an applicant who has not received an associate degree in sign language interpretation or a certificate of completion of an education and training program regarding such interpretation, but who otherwise satisfies the requirements in subd. 1. (intro.), if, within 24 months after establishing residency in the state, the applicant provides evidence satisfactory to the department that the applicant holds one of the certifications specified in subd. 1. a., b., or c., that the applicant obtained the certification prior to establishing residency in the state, and that the applicant held the certification at the time the applicant established residency in the state.

(b) Restricted licenses.

1. The department shall grant a license as a sign language interpreter to an applicant who submits an application on a form provided by the department, pays the fee determined by the department under s. 440.03 (9) (a), and submits evidence satisfactory to the department of all of the following:

- a. The applicant has received an associate degree in sign language interpretation or has received a certificate of completion of an education and training program regarding such interpretation.
- b. The applicant is verified by the Wisconsin interpreting and transliterating assessment at level 2 or higher in both interpreting and transliterating.
- c. The applicant has passed the written examination administered by the Registry of Interpreters for the Deaf, Inc., or its successor.
- d. The applicant is an associate or student member of the Registry of Interpreters for the Deaf, Inc., or its successor.

2. The department shall grant a restricted license as a sign language interpreter, authorizing the holder to provide interpretation services only under the supervision of an interpreter licensed under par. (a), to an applicant who submits an application on a form provided by the department, pays the fee determined by the department under s. 440.03 (9) (a), and submits evidence satisfactory to the department of all of the following:

- a. The applicant has been diagnosed by a physician as deaf or hard of hearing.
- b. The applicant has completed 8 hours of training sponsored by the Registry of Interpreters for the Deaf, Inc., or its successor, on the role and function of deaf interpreters.
- c. The applicant has completed 8 hours of training sponsored by the Registry of Interpreters for the Deaf, Inc., or its successor, on professional ethics.
- d. The applicant has obtained letters of recommendation from at least 3 individuals who have held national certification for at least 5 years and who are members in good standing of the Registry of Interpreters for the Deaf, Inc., or its successor, if the letters together document that the applicant has completed at least 40 hours of mentoring, including at least 20 hours observing professional work and at least 10 hours observing certified deaf interpreters.
- e. The applicant has completed at least 40 hours of training consisting of workshops sponsored by the Registry of Interpreters for the Deaf, Inc., or its successor, or other relevant courses.

f. The applicant is an associate or student member of the Registry of Interpreters for the Deaf, Inc., or its successor.

g. The applicant has a high school diploma or an equivalent.

3. A license granted under subd. 1. or 2. may be renewed twice and is not valid upon the expiration of the 2nd renewal period.

(4) Notification required. A person who is licensed under sub. (3) shall notify the department in writing within 30 days if the person's certification or membership specified in sub. (3) that is required for the license is revoked or invalidated. The department shall revoke a license granted under sub. (3) if such a certification or membership is revoked or invalidated.

(5) License renewal. The renewal dates for licenses granted under sub. (3) (a) are specified in s. 440.08 (2) (a) 68c. Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee determined by the department under s. 440.03 (9) (a) and evidence satisfactory to the department that the person's certification or membership specified in sub. (3) that is required for the license has not been revoked or invalidated.

(6) Council. The council shall do all of the following:

(a) Make recommendations to the department regarding the promulgation of rules establishing a code of ethics that governs the professional conduct of persons licensed under sub. (3).

(b) Advise the department regarding the promulgation and implementation of rules regarding the practice of sign language interpreters.

(c) Advise the legislature regarding legislation affecting sign language interpreters.

(d) Promulgate rules establishing a process and criteria for granting exemptions under sub. (2) (c) 2.

(e) Assist the department in alerting sign language interpreters and the deaf community in this state to changes in the law affecting the practice of sign language interpreters.

(7) Rule making.

(a) The department may not promulgate rules that impose requirements for granting a license that are in addition to the requirements specified in sub. (3).

(b) After considering the recommendations of the council, the department shall promulgate rules that establish a code of ethics that governs the professional conduct of persons licensed under sub. (3). In promulgating rules under this paragraph, the department shall consider including as part or all of the rules part or all of the code of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor. The department shall periodically review the code of ethics established by the Registry of Interpreters for the Deaf, Inc., or its successor, and, if appropriate, revise the rules promulgated under this paragraph to reflect revisions to that code of ethics.

(8) Disciplinary proceedings and actions. Subject to the rules promulgated under s. 440.03 (1), the department may make investigations and conduct hearings to determine whether a violation of this section or any rule promulgated under this section has occurred and may reprimand a person who is licensed under sub. (3) or may deny, limit, suspend, or revoke a license granted under sub. (3) if it finds that the applicant or licensee has violated this section or any rule promulgated under this section.

(9) Penalty. A person who violates this section or any rule promulgated under this section may be fined not more than \$200 or imprisoned for not more than 6 months or both.

CH. 551: WISCONSIN UNIFORM SECURITIES LAW

551.304 Securities Registration by Qualification

(2)(o) A signed or conformed copy of an opinion of counsel concerning the legality of the security being registered, with an English translation if it is in a language other than English, which states whether the security when sold will be validly issued, fully paid, and nonassessable and, if a debt security, a binding obligation of the issuer.

CH. 756: JURIES

756.001 State policy on jury service; opportunity and obligation to serve as juror

- (1) Trial by jury is a cherished constitutional right.
- (2) Jury service is a civic duty.
- (3) No person who is qualified and able to serve as a juror may be excluded from that service in any court of this state on the basis of sex, race, color, sexual orientation as defined in s. 111.32 (13m), disability, religion, national origin, marital status, family status, lawful source of income, age or ancestry, or because of a physical condition.

756.02 Juror qualifications

Every resident of the area served by a circuit court who is at least 18 years of age, a U.S. citizen, and able to understand the English language is qualified to serve as a juror in that circuit unless that resident has been convicted of a felony and has not had his or her civil rights restored.

CH. 757: GENERAL PROVISIONS CONCERNING COURTS OF RECORD, JUDGES, ATTORNEYS & CLERKS

757.18 Process, etc., to be in English.

All writs, process, proceedings and records in any court within this state shall be in the English language, except that the proper and known names of process and technical words may be expressed in the language heretofore and now commonly used, and shall be made out on paper or parchment in a fair, legible character, in words at length and not abbreviated; but such abbreviations as are now commonly used in the English language may be used and numbers may be expressed by Arabic figures or Roman numerals in the usual manner.

CH. 758: JUDICIAL BRANCH AGENCIES AND COMMITTEES

758.18 Judicial conference: standard court forms.

- (1) The judicial conference shall adopt standard court forms for use by parties and court officials in all civil and criminal actions and proceedings in the circuit court as provided in ss. 807.001 (1) and 971.025 (1). If an applicable court form has been adopted under sub. (2), that form may be used in lieu of the standard court form.
- (2) At the request of the director of state courts, the judicial conference may adopt forms created for voluntary use by self-represented litigants in the circuit court. The judicial conference shall identify which forms are intended for voluntary use.
- (3) The judicial conference may adopt translations of forms adopted under subs. (1) and (2). The judicial conference shall identify the forms to be translated and the languages to be used.

758.19 Director of State Courts

(5)

(b) From the appropriation under s. 20.625 (1) (cg), the director of state courts shall make payments to counties for circuit court costs. The director of state courts, at the direction of the supreme court, shall define circuit court costs for the purposes of this subsection.

CH. 799 PROCEDURES IN SMALL CLAIMS ACTIONS

799.04 Relation of this chapter to other procedural rules.

(2) Forms. Except as otherwise provided in this subsection and this chapter, the forms specified in chs. 801 to 847 shall be used. Forms shall be uniform, concisely written and readily understandable by members of the public. Summons and complaint forms shall be made available to the public by

the clerk of court and, in counties having a population of 500,000 or more, the summons shall have all provisions printed in both English and Spanish.

CH. 800 MUNICIPAL COURT PROCEDURE

800.02 Form of citation, complaint, summons and warrant in municipal ordinance violation cases

(4) Summons form.

(a) The summons shall be signed by a municipal judge or by the attorney who is prosecuting the case in municipal court and shall contain the following information:

1. The title of the cause, specifying the name of the court and county in which the action is brought and the names of all parties to the action.
2. A direction summoning and requiring the defendant to appear in a specified court on a particular date not less than 10 days following service of the summons to answer the accompanying citation or complaint.
3. A notice that in case of failure to appear, judgment may be rendered against the defendant according to the demand of the citation or complaint, or the court may issue a warrant for the defendant's arrest.

(b) In 1st class cities, all of the written information required under par. (a) shall be printed in Spanish on a separate sheet attached to the summons or provided in Spanish on the summons.

CH. 807: CIVIL PROCEDURE: MISCELLANEOUS PROVISIONS

807.14 Interpreters

On request of any party, the court may permit an interpreter to act in any civil proceeding other than trial by telephone or live audiovisual means.

CH. 814: COURT COSTS, FEES AND SURCHARGES

814.67 Fees of witnesses and interpreters

(1) The fees of witnesses and interpreters shall be as follows:

(a) For attending before a municipal judge, an arbitrator, or any officer, board or committee:

1. For witnesses, \$5 per day.
2. For interpreters, \$10 per one-half day or such higher fees as the municipality or county board may establish.

(am) For witnesses attending before a circuit court, \$16 per day.

(b) For attending before the court of appeals or the supreme court:

1. For witnesses, \$16 per day.
2. For interpreters, a fee determined by the supreme court.

(bg) For interpreters assisting the state public defender in representing an indigent in preparing for court proceedings, \$35 per one-half day.

(c)

1. For a witness, the rate of 20 cents per mile for either of the following:

- a. Traveling from his or her residence to the place of attendance, and returning by the usually traveled route between such points if his or her residence is within the state.
- b. Traveling from the point where he or she crosses the state boundary to the place of attendance and returning by the usually traveled route between such points if his or her residence is outside the state.

2.

a. Except as provided in subd. 2. b., for an interpreter, the mileage rate set under s. [20.916 \(8\)](#) for traveling from his or her residence to the place of attendance and returning by the usually traveled route between such points.

b. For an interpreter traveling to the place of attendance from his or her place of residence outside the state, the number of miles between the interpreter's residence and the point at which he or she crosses the state boundary for which the interpreter may receive reimbursement under this subdivision may not exceed 100 miles each way, following the usually traveled route between such points.

(2) A witness or interpreter is entitled to fees only for the time he or she is in actual and necessary attendance as such; and is not entitled to receive pay in more than one action or proceeding for the same attendance or travel on behalf of the same party. A person is not entitled to fees as a witness or interpreter while attending court as an officer or juror. An attorney or counsel in any cause may not be allowed any fee as a witness or interpreter therein.

CH. 868: PROBATE – ANCILLARY PROCEDURES

868.01(7) Uniform Probate of foreign wills act. Authentication and translation

Proof contemplated by this section may be made by authenticated copies of the will and the records of judicial proceedings with reference thereto. If the will has not been probated but is otherwise established under the laws of the jurisdiction where the testator died domiciled, its contents and establishment may be proved by the authenticated certificate of the notary or other official having custody of the will or having authority in connection with its establishment. If the respective documents or any part thereof are not in the English language, verified translations may be attached thereto and shall be regarded as sufficient proof of the contents of the documents unless objection is made thereto. If any person in good faith relies upon probate under this section the person shall not thereafter be prejudiced because of inaccuracy of such translations, or because of proceedings to set aside or modify the probate on that ground

CH. 885: WITNESS AND ORAL TESTIMONY

885.37 Interpreters in municipal courts and administrative agency contested cases

(1) (b) If a municipal court has notice that a person who is a juvenile or parent subject to Ch. 938, or who is a witness in a proceeding under Ch. 938, has a language difficulty because of an inability to speak or understand English, has a hearing impairment, is unable to speak or has a speech defect, the court shall make a factual determination of whether the language difficulty or the hearing or speaking impairment is sufficient to prevent the individual from communicating with his or her attorney, reasonably understanding the English testimony or reasonably being understood in English. If the court determines that an interpreter is necessary, the court shall advise the person that he or she has a right to a qualified interpreter and that, if the person cannot afford one, an interpreter will be provided for him or her at the public's expense. Any waiver of the right to an interpreter is effective only if made voluntarily in person, in open court, and on the record.

(2) A municipal court may authorize the use of an interpreter in actions or proceedings in addition to those specified in sub. (1)(b).

(3)(a) In this subsection:

1. "Agency" includes any official, employee, or person acting on behalf of an agency.
2. "Contested case" means a proceeding before an agency in which, after a hearing required by law, substantial interests of any party to the proceeding are determined or adversely affected by a decision or order in the proceeding and in which the assertion by one party of any such substantial interest is denied or controverted by another party to the proceeding.

(b) In any administrative contested case proceeding before a state, county, or municipal agency, if the agency conducting the proceeding has notice that a party to the proceeding has a language difficulty because of the inability to speak or understand English, has a hearing impairment, is unable to speak, or has a speech defect, the agency shall make a factual determination of whether the

language difficulty or hearing or speaking impairment is sufficient to prevent the party from communicating with others, reasonably understanding the English testimony or reasonably being understood in English. If the agency determines that an interpreter is necessary, the agency shall advise the party that he or she has a right to a qualified interpreter. After considering the party's ability to pay and the other needs of the party, the agency may provide for an interpreter for the party at the public's expense. Any waiver of the right to an interpreter is effective only if made at the administrative contested case proceeding.

(3m) Any agency may authorize the use of an interpreter in a contested case proceeding for a person who is not a party but who has a substantial interest in the proceeding.

(4) (a) The necessary expense of furnishing an interpreter for an indigent person in a municipal court shall be paid by the municipality.

(b) The necessary expense of furnishing an interpreter for an indigent party under sub. (3) shall be paid by the unit of government for which the proceeding is held.

(c) The court or agency shall determine indigency under this section.

(5) (a) If a municipal court under sub. (1)(b) or (2) or an agency under sub. (3) decides to appoint an interpreter, the court or agency shall follow the applicable procedure under par. (b) or (c).

(b) The department of health and family services shall maintain a list of qualified interpreters for use with persons who have hearing impairments. The department shall distribute the list, upon request and without cost, to courts and agencies who must appoint interpreters. If an interpreter needs to be appointed for a person who has a hearing impairment, the court or agency shall appoint a qualified interpreter from the list. If no listed interpreter is available or able to interpret, the court or agency shall appoint as interpreter another person who is able to accurately communicate with and convey information to and receive information from the hearing-impaired person.

(c) If an interpreter needs to be appointed for a person with an impairment or difficulty not covered under par. (b), the court or agency may appoint any person the court or agency decides is qualified.

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 coordination, discipline, retention, and training of those interpreters.

(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 and that an interpreter will be provided 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) The 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 a 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.
- (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.

CH. 887: DEPOSITIONS, OATHS AND AFFIDAVITS

887.27 Depositions, translations of.

When the witness is unable to speak the English language, the judge of the court from which the commission issues may appoint some competent and disinterested person to translate, at the expense of the noticing person, the subpoena, rules, and deposition questions and answers, or any part thereof as may be necessary, from English into the language used by the witness or vice versa; and the translation shall be transcribed and maintained as part of the deposition transcript. The

translator shall append to all translations the translator's affidavit that the translator knows English and the language of the witness, and that in making such translation the translator carefully and truly translated the proceedings from English into the witness's language or from the witness's language into English, and that the translation is correct. A translation under this paragraph shall have the same effect as if all the proceedings were in English, but the circuit court, upon the deposition being offered in evidence, may admit the testimony of witnesses learned in the language of the deposed witness for the purpose of correcting errors therein; and, if it shall appear that the first translation was in any respect so incorrect as to mislead the witness, the court may, in its discretion, continue the cause for the further taking of testimony.

CH. 901: EVIDENCE – GENERAL PROVISIONS

901.09 Submission of writings; languages other than English.

(1) The court may require that a writing in a language other than English offered in evidence be accompanied by a written translation of the writing into English with an attached affidavit by the translator stating his or her qualifications to perform the translation and certifying that the translation is true and correct.

(2) A party may object to all or parts of a translation offered under sub. (1) or to the qualifications of the translator. The court may order a party objecting to all or part of a translation to submit an alternate translation of those parts of the original translation to which the party objects, accompanied by a translator's affidavit as described in sub. (1). If an objection is made to the qualifications of the translator and the court finds that the translator is not qualified the court may reject the offered translation on that ground alone without requiring an alternative translation by the objecting party.

(3) The court may require a party offering into evidence a translation under sub. (1) or an alternative translation ordered by the court under sub. (2) to bear the cost of the translation.

Comment, 2010: *This rule is not intended to apply strictly to evidence in documentary form. Parties often offer evidence not contained in documents that consists of or contains statements made in a foreign language, for example, recordings of telephone calls to 911 operators, recordings of police interrogations, and surveillance recordings. The better practice when offering such evidence is for a party to offer a written transcript of the recording, to aid the jury or the court in understanding the recording. Sometimes the transcript is received as evidence, but not always, and in any event the recording is considered primary and the transcript merely an aid. If a party offers in evidence a recording accompanied by a transcript, this rule governs the transcript.*

905.015 Interpreters for persons with language difficulties or hearing or speaking impairments

If an interpreter for a person with a language difficulty, limited English proficiency, as defined in s. 885.38 (1) (b), or a hearing or speaking impairment interprets as an aid to a communication which is privileged by statute, rules adopted by the supreme court, or the U.S. or state constitution, the interpreter may be prevented from disclosing the communication by any person who has a right to claim the privilege. The interpreter may claim the privilege but only on behalf of the person who has the right. The authority of the interpreter to do so is presumed in the absence of evidence to the contrary.

(2) In addition to the privilege under sub. (1), a person who is licensed as an interpreter under s. 440.032 (3) may not disclose any aspect of a confidential communication facilitated by the interpreter unless one of the following conditions applies:

(a) All parties to the confidential communication consent to the disclosure.

(b) A court determines that the disclosure is necessary for the proper administration of justice.

CH. 906: EVIDENCE - WITNESSES

906.04 Interpreters

An interpreter is subject to the provisions of chs. 901 to 911 relating to qualification as an expert and the administration of an oath or affirmation that the interpreter will make a true translation.

CH. 938: JUVENILE JUSTICE CODE

938.315 Delays, continuances and extensions

(1) The following time periods shall be excluded in computing time requirements within this chapter:

(h) Any period of delay resulting from the need to appoint a qualified interpreter.

CH. 967: CRIMINAL PROCEDURE – GENERAL PROVISIONS

967.09 Interpreters may serve by telephone or video

On request of any party, the court may permit an interpreter to act in any criminal proceeding, other than trial, by telephone or live audiovisual means.

Wisconsin Supreme Court Rules

The Wisconsin Supreme Court has adopted a code of ethics for interpreters working in the Wisconsin courts as Chapter 63 of the Supreme Court Rules, effective July 1, 2002. The code governs the delivery of services by foreign language and sign language interpreters working in the courts of the State of Wisconsin. Its purpose is to define the duties of interpreters and thereby enhance the administration of justice and promote public confidence in the courts.

CHAPTER 63: CODE OF ETHICS FOR COURT INTERPRETERS

63.001 Citation of rules; definitions

1. SCR 63.001 to 63.10 may be cited as the "Code of Ethics for Court Interpreters."
2. In this chapter "code" means the Code of Ethics for Court Interpreters.
3. "Shall" is used in the code to define principles to which adherence is required.

63.002 Preamble

Many persons are partially or completely excluded from participation in court proceedings due to limited proficiency in the English language, as described in ss. 885.37 (1) (b) and 885.38 (1) (b), stats. Communication barriers must be removed as much as is reasonably possible so that these persons may enjoy equal access to justice. Qualified interpreters are highly skilled professionals who help judges conduct hearings justly and efficiently when communication barriers exist.

63.003 Applicability

The code governs the delivery of services by foreign language and sign language interpreters working in the courts of the State of Wisconsin. Its purpose is to define the duties of interpreters and thereby enhance the administration of justice and promote public confidence in the courts. The code also applies to real time reporters when functioning in the capacity of providing access to court users.

63.004 Interpretation

The comments accompanying this code are not adopted. The comments are intended as guides to interpretation, but the text of each rule is authoritative. If a court policy or routine practice appears to conflict with any provision of the code the policy or practice should be reviewed for modification.

63.01 Accuracy and completeness

Interpreters shall render a complete and accurate interpretation or sight translation by reproducing in the target language the closest natural equivalent of the source language message, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explanation.

63.02 Representation of qualifications

Interpreters shall accurately and completely represent their certifications, training, and experience.

63.03 Impartiality and avoidance of conflict of interest

Interpreters shall be impartial and unbiased, and shall refrain from conduct that may give an appearance of bias. Interpreters shall disclose any real or perceived conflict of interest to the judge and the parties.

63.04 Professional demeanor

Interpreters shall conduct themselves in a manner consistent with the dignity of the court.

63.05 Confidentiality

Interpreters shall protect the confidentiality of all privileged and other confidential information.

63.06 Restriction on public comment

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential, except to facilitate training and education.

63.07 Scope of practice

Interpreters shall limit themselves to interpreting or translating and shall not give legal or other advice, express personal opinions to persons using their services, or engage in any other activities that may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

63.08 Assessing and reporting impediments to performance

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, the interpreters shall immediately convey that reservation to the appropriate judicial authority.

63.09 Duty to report ethical violations

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of this code, or any other official policy governing court interpreting and translating.

63.10 Professional development

Interpreters shall improve their skills and knowledge and advance the profession through activities such as professional training and education and interaction with colleagues and specialists in related fields.

CH. 70 RULES OF JUDICIAL ADMINISTRATION

SCR 70.155 Translation of court forms.

(1) The records management committee, working with the director of state courts office, shall identify court forms and instructions suitable for translation into a language other than English. Translated forms adopted by the judicial members of the records management committee, on behalf of the judicial conference, shall be treated as court forms adopted under s. 758.18, stats., and SCR 70.153.

(2) Translated forms shall use a format that incorporates both English and the second language. Every question or statement requiring a response, such as a check box or signature, will provide only one location in the English portion of the form to make that response. The answers to free-text questions must be written in English.

(3) Each translated form shall carry a notice, in both languages, that the translated form does not replace any of the following:

(a) The need for an interpreter.

(b) Any colloquies mandated by law.

(c) The responsibility of court and counsel to ensure that persons with limited English proficiency fully comprehend their rights and obligations.

(4) Use of a translated form does not supersede the need for an interpreter for communicating with counsel, or for in-court proceedings pursuant to s. 885.38, stats. Interpreters may assist individuals in filling out forms to the extent permitted by SCR 63.07.

(5) Any translation of a form shall be accompanied by an affidavit stating that the translator knows English and the second language and that in making the translation the translator carefully translated the form from English into the other language and that the translation is true and correct.

Wisconsin Case Law

State v. Besso, 72 Wis.2d 335, 240 N.W.2d 895 (1976) Defendant failed to demonstrate her guilty pleas should be withdrawn because there was no evidence to show that the interpreter, an acquaintance of the defendant, misinterpreted or misstated court's questions or failed to relay her responses accurately. There was substantial evidence from which the trial judge could conclude that defendant, even without an interpreter, was cognizant of what was going on and aware of implications of her guilty pleas.

State v. Neave, 117 Wis. 2d 359, 344 N.W. 2d 181 (1984) The right to an interpreter exists "as a matter of judicial administration," concluding that in the interest of fairness and justice, interpreters should assist defendants where necessary. The assistance of an interpreter promotes judicial economy by reducing the risk of appeal on grounds on inaccurate interpretation or failure to appoint an interpreter. The right to an interpreter can only be waived by the defendant personally, in open court, and on the record. If the court determines that an interpreter is necessary, the court must inform the defendant of the right to an interpreter and that one will be provided at public expense if the defendant is unable to afford one.

State v. Patino, 177 Wis.2d 348, 502 N.W.2d 601 (Ct. App. 1993) When a person relies on a translator, the statements of the translator are regarded as the speaker's for hearsay purposes.

State v. Tai V. Le, 184 Wis. 2d 860, 517 N.W. 2d 144 (1994) The selection of a qualified interpreter is within the discretion of the trial court. If the defendant is indigent, the expense for an interpreter is

allocated to the Director of State Courts for in-court proceedings, and to the State Public Defender for out-of-court proceedings.

State v. Xiong Yang, 201 Wis. 2d 721, 549 N.W. 2d 769 (Ct. App. 1996) When a trial court is put on notice that a defendant has a “language difficulty,” the court must make a factual determination whether the defendant needs an interpreter because such difficulty prevents the defendant from communicating with counsel, reasonably understanding English testimony, or reasonably being understood in English. The trial court’s factual determination does not require an elaborate hearing.

State v. Santiago, 206 Wis.2d 3, 556 N.W.2d 687 (1996) A defendant is deprived of the ability to present his case to the circuit court and preserve it for appeal when testimony given in Spanish is not translated into English for the record. Without an English translation, the court cannot evaluate whether the substance of a Miranda warning in Spanish was sufficient that the defendant could knowingly and intelligently waive his right to an attorney. When both the accused and the witnesses require an interpreter, the better practice may be to have two interpreters, one for the accused and one for the court.

State v. Hindsley, 2000 Wi. App. 130, 14-15, 614 N.W. 2d 48 (2000) Expert witnesses testified that for the concept “rights,” the interpreter used the sign for “all right” or “okay,” and the defendant’s responses showed he understood the sign as “all right” or “okay.” The interpreter interpreted the defendant’s nodding of his head to mean “yes,” but in American Sign Language a head nod, by itself, may mean “I understand,” “I’m waiting for clarification” or “go ahead,” and does not necessarily mean “yes.” At no time, one expert testified, did the defendant express that he understood his rights. Another expert characterized the communication between defendant and interpreter as “disconnected.” Under these circumstances, the trial court properly concluded that the defendant’s waiver of the right to counsel was not knowing and intelligent.

State v. Douangmala, 2002 WI 62, (2002), 253 Wis.2d 173, 646 N.W.2d Wis. Stat. §971.08(2) expressly sets forth the remedy to be granted upon a defendant’s motion if a circuit court fails to advise a defendant about deportation consequences as required by §971.08(1)(c) and if the defendant shows that the plea is likely to result in deportation. Section 971.08(2) states that under these circumstances the circuit court “shall vacate any applicable judgment against the defendant and permit the defendant to withdraw the plea and enter another plea.” The defendant in this case fulfilled the conditions set forth in §971.08(2), and the Supreme Court reversed the decision of the court of appeals that affirmed the order of the circuit court denying defendant’s motion to withdraw his no-contest plea. The case was remanded to the circuit court to vacate the judgment of conviction and permit the defendant to withdraw his plea and enter another plea.

Further, the Supreme Court noted, as Wisconsin’s immigrant population grows, obtaining qualified interpreters for an ever-growing, diverse, and multi-language population remains a high priority for the court. This case “illustrates the necessity of the legislative, executive, and judicial branches of government of this state working together to provide qualified interpreters for persons who cannot, hear, speak, or understand English to preserve their meaningful access to the legal system.”

State v. Begicevic, 270 Wis.2d 675, 678 N.W.2d 293 (2004) Despite officer’s knowledge that English was not Begicevic’s first language, she made no attempt to locate an interpreter to assist her and when she read the Informing the Accused form to Begicevic, there was no verbatim translation in German of what was being read nor was there any explanation of rights on the form in German to

Begicevic. The appellate court said the issue was not a subjective determination of whether the officer believed Begicevic understood what was being said to him, but rather an objective test of whether the officer used reasonable methods to convey the implied consent warnings.

State v. Luis Flores, 275 Wis.2d 275, 683 N.W.2d 93 (2004) Defendant's inability to speak English does not entitle him to a mental competency hearing, see *State v Haskins* (139 Wis. 2d 257, 407 N.W.2d 309 (Ct. App. 1987))

State v. Amani Beni, 285 Wis.2d 807, 701 N.W.2d 652 (2005) With an allegation of inadequate interpreting, the burden is on the appellant to show the interpreter was deficient. A trial court's discretion in the choice of an interpreter will not be upset unless there is a showing a defendant has been prejudiced by the interpreter's performance. While the trial court has a duty to choose the most competent and the least biased person available, the defendant must also show that some injustice has resulted because of the appointment of the interpreter.

State v. Lavelle W., 288 Wis.2d 504, 708 N.W.2d 698 (2005) While not a case involving an interpreter, the appellate court said a parent in a TPR case was denied meaningful participation when he was hooked up via telephone from a remote location rather than be personally present. The court said although Lavelle W. may have been able to hear significantly more than he was unable to hear, it was not sufficient because "periodic or sporadic inaudibility," significantly truncated his ability to *fully* comprehend what was going on and hindered his ability to get a feel for the proceedings.

State v. Russ, 709 N.W.2d 483 (2005) Russ was shackled during his plea and sentencing hearing and said his restraints impeded his ability to communicate by sign language. He introduced expert testimony who explained four factors critical to effective communication through sign language. The appellate court said he had to show he was in fact unable to communicate not just that he "theoretically" might have had some difficulty to communicate. The burden is on him, not the state to prove an actual communication lapse.

State v. Revesteijn, 727 N.W.2d 53 (2006) Citing *State v Neave*, the appellate court said the trial court's obligation to make a factual determination about the need for an interpreter is triggered only when the court is put on notice the defendant has a language barrier. Defendant alleged the court was obligated to consider whether he needed an interpreter and obtain his personal waiver of his right to an interpreter. There was nothing in the transcript suggesting defendant had a language barrier or was unable to understand the plea colloquy or that the court was made aware of any language problem.

State v. Yang, 290 Wis.2d 235, 712 N.W.2d 400 (2006) Court erred when it limited questioning of defendant's ex-wife during cross-examination, who testified through an interpreter. Thirteen times during her 31-page testimony, witness asked the interpreter for clarification or help which evidenced her lack of comprehension. Appellate court said defendant was denied his right to confront witnesses.

State v. Christopher L, 278 Wis.2d 812, 691 N.W.2d 926 (2006) Defendant, who had made known to the court his hearing difficulties, used an Assisted Listening Device (ALD) during trial. While there was some evidence at trial he had problems hearing while using the device, when he turned up the volume on the ALD, it seemed to fix the problem. Appellant never complained about any

inconvenience during the trial. Appellate court said there is no due process right to an interpreter, there is only a right to a *necessary* interpreter.

State v. Velazquez-Perez 303 Wis.2d 743, 735 N.W.2d 192 (2007) Appellate court said trial court erred in not granting an evidentiary hearing on his claim that his plea was not entered knowingly, voluntarily, and intelligently. Defendant moved to withdraw his guilty plea because the interpreter spoke too fast and may have been speaking a different dialect. The motion contained enough factual allegations to warrant holding an evidentiary hearing to see whether he could prove his claim.

Strook v. Kedinger 316 Wis.2d 548, 766 N.W.2d 219 (2009) When a person who must appear in court at a substantive proceeding, seeks an accommodation because of physical disability, and self-identifies in as reasonable a time as possible before the hearing, circuit courts who believe they need more information before deciding whether and what accommodation to give should make a factual determination **before** the date of the substantive hearing. The determination may be either by informal means or by a formal hearing with notice to the person alleging a disability. Appellate Court reversed because the circuit court maintained silence about the accommodation request and decided the request at the substantive hearing. Appellate court said that process prejudicially affected the person with a disability's right to a fair hearing.

McCarthy v. McCarthy, 2011AP1220 (May 10, 2012) (unpublished) Appellate court said trial court properly differentiated between the ability to understand English and the need to have questions rephrased which is standard practice in legal proceedings. The trial court's own observations in four pending civil cases where appellant corrected counsel and went beyond the scope of questioning demonstrated she was proficient in English.

State v. Gonzalez-Villarreal, 2011AP1259-CR (Sept 18, 2012) Appellate court reversed circuit court's disqualification of an attorney who had served as his client's interpreter during a police interview because it violated defendant's 6th Amendment right to choose counsel. During the interview where attorney served as interpreter, the suspect made potentially incriminating statements during the recorded interview. Because the attorney acted as an interpreter, the State argued that he put himself in a situation where he could potentially be called as a witness to testify about the accuracy of the translation. For disqualification, the appellate court said the moving party must show that the attorney would have been a "necessary" witness which the record did not support.

State v. Webster, 2016AP225-CR (Nov 15, 2016) (unpublished) Appellate court affirmed the circuit court's denial of defendant's motion to disqualify the interpreter under SCR 63.01 Accuracy and Completeness for alleged interpreter errors. Adopting the standards set forth in *State v. Besso*, the appellate court said selection of the interpreter is within the trial court's discretion; and if the interpreter's performance is challenged, the challenger has the burden of showing the interpreter was deficient and that the defendant was prejudiced by the deficiency. Webster failed to show any of the alleged interpreter errors whether taken individually or in totality prejudiced the defendant. Appellate court said while the circuit court should have qualified the interpreter as an expert witness under Wis. Stat. §906.04 and *State v. Santiago*, the circuit's failure to do so did not warrant reversal because Webster never objected to the interpreter's qualifications, only the interpretation.