

INTRODUCTION

During the 1970s and 1980s, laws and rules for court procedure affecting a D/deaf person's right to access the judicial system were implemented all across the country. Many of them fit into already existing laws providing for interpreters of foreign languages while others were written expressly for D/deaf people. This document provides an analysis of twenty such laws. It includes states which are traditionally thought of as primarily rural and those with one or more large metropolitan area. The purpose of this document is to allow students of legal interpretation to recognize and understand what constitutes a law which furthers the administration of justice and what does not. Its purpose is also to assist students in better understanding what difficulties they may encounter when a D/deaf person needs access to a particular arena but law does not provide for interpreters in that arena.

Certain characteristics, or lack thereof, appear

6. Many state statutes do not specifically name municipal courts as mandated to provide interpreters, although one could argue that for those statutes which provide interpreters anytime a D/deaf person appears in any judicial proceeding that municipal courts would be included. Still, without being named in legislation, the courts could disallow interpreters in such courts or they could be provided at the discretion of the court. This

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matters and coroner's inquests; provides for
interpreter to be sworn under rules of civil

proceedings; provides interpreters for Deaf parent(s) of juvenile; specifically names victim as having right to interpreter; disallows employee(s) of agency (e.g., police officer) to provide interpretation services; gives power to appoint interpreters to Commission—this removes burden from (court's) appointing authority who, in general, has no knowledge of interpretation standards; provides for extensive access to human service agencies via interpreter services; provides for oath in criminal and civil matters; provides for monetary compensation and actual travel costs and incidentals.

Weaknesses: Does not specifically name relay interpreters as allowed; provides for non-certified interpreters; does not provide for privilege for interpreter.

Comment: Commission pays interpreters and is reimbursed by courts; this may result in more timely payment for interpreters than if they were being paid directly by courts—may be seen as a negative or positive by interpreters subject to this procedure.

Note: Overall exemplary law with minor flaws which could be removed via administrative directive or rules for court procedure.

DISTRICT OF COLUMBIA

Addition: 1. Superior Court of District of Columbia, Court Rules 28(b) —Court appoints interpreter of its own selection and fixes reasonable compensation. 2.

Repayment: in civil matters/ court fixes fee—funds are paid out of funds by law or by one or more of parties, as directed by court/ or may be ultimately taxed as costs. In criminal matters/ court fixes reasonable compensation to be paid by law or government/ as court directs.

Strengths: Provides for interpreters in virtually all legal proceedings; provides for payment of interpreter fees.

Weaknesses: Does not provide for RID certified interpreters; does not name relay interpreters; does not provide for interpreters during interrogation; does not provide for travel costs and/or subsistence costs; payment of interpreters by litigants in civil matters may put Deaf person and interpreter in compromising position; in contested cases before an agency. Deaf person must apply to mayor or agency for interpreter services; does not provide privilege for interpreters.

FLORIDA

Additions: Re, grand jury. Sec. 905.27—Not to disclose testimony; Sec. 905.26— Not to disclose finding. Re, criminal. Sec.839.24—Penalty for failure to perform duty required of officer.

Strengths: Provides for interpreters in all judicial proceedings, including grand jury hearings; provides for interpreters at interrogation; provides for RID certified interpreters; provides for oath; provides for privilege; provides for reasonable fee and actual travel expenses in criminal matters/- requests notification for need of interpreter but does not consider lack of request as waiver of need; provides second degree misdemeanor sanction against interpreters (and other court officers) who fail to perform duties as required.

Weaknesses: Does not specifically name relay interpreters; allows for interpreters with Florida RID certificates of competence to interpret in court; may require Deaf person to provide proof of deafness; in civil matters/interpreter fees may be taxed as costs.

ILLINOIS

Strengths: Provides for interpreters in virtually all judicial proceedings; provides for reasonable fee; provides for oath "when necessary."

Weaknesses: Does not require RID certified interpreters or relay interpreters; does not provide for interpreter at interrogation; fees paid to interpreter at discretion of court; if witness is "deaf but not mute/ it is proper to hand him written question after showing them to opposing counsel"—such a provision could interfere with provision of interpretation services for Deaf individuals who wish to speak for themselves (pg.86); case law repeatedly refers to Deaf people as deaf-mutes.

Note: Significant case law worth reading.

INDIANA

Strengths: Provides for interpreters in civil, administrative/ and grand jury proceedings; provides for oath.

Weaknesses: Does not provide for RID certified interpreters or relay interpreters; does not provide for interpreters at interrogation; does not provide for privilege; provides that in criminal matters, the court may (versus shall) appoint an interpreter of its own selection and may fix reasonable compensation; in civil and administrative hearings/ parties may retain their own interpreters or be appointed by the court—if appointed by the court, interpreters will be compensated in manner determined by the court; in criminal matters/ interpreters may be paid out of funds provided by law or by one or more of the parties and may be taxed ultimately as costs, in the discretion of the court.

LOUISIANA

Strengths: Provides for interpreters in virtually all judicial proceedings; provides for relay interpreters; provides for oath; provides for privilege; provides for "reasonable fee" plus compensation for waiting time and travel expenses.

Weaknesses: Does not provide for RID certified interpreters; does not provide for interpreters at interrogation; provides that interpreters at licensing or pre-employment examinations of state or its agencies be paid \$15.00 for the first hour and \$5.00 for each subsequent hour/ up to a maximum of eight hours in a calendar day.

Comment: Provides for visual recording of proceeding on motion of appointing authority or parties. This may be seen as positive or negative from the perspective of various participants in proceeding. It should be seen as positive from interpreter's perspective as providing proof of appropriate interpretation services.

MASSACHUSETTS

Additions: Rule 41, Interpreters and Experts; Rule 43 Evidence; Mass Gen. Laws Ann. Ch. 218, Sec. 67, District Courts.

Strengths: Provides for interpreters in virtually all judicial and quasi-judicial matters, including potential provision in municipal courts (judges may appoint); disallows interpreter from making ultimate decision on admissibility of non-English speaking witness's testimony (case law); specifically provides for Deaf parents of juveniles; provides for interpreters at interrogation; provides for privilege; provides for "reasonable fee," actual expenses/ and ordinary living expenses commensurate with reimbursement to commonwealth employees; defines right to "be present" at trial as participating meaningfully in trial; recognizes inclusion of interpreter as benefit not only to Deaf person but to court as well; does not exclude non-indigent litigants from receiving services of court appointed interpreters.

Weaknesses: Does not require RID certified interpreters.

Comment: Rule 41 outlines expectations of professional behavior.

Note: Overall exemplary law with flaw which could be removed via administrative

directive or rules for court procedure.

MISSOURI

Update: Re payment (491.300, General Provisions), "Interpreters and translators shall be allowed fees for their services/ in

Strengths: Provides for interpreters in virtually all judicial and quasi

reimbursement for travel expenses.

Weaknesses: Does not specifically provide for relay interpreters

Comment: On motion of appointing authority or parties, testimony of Deaf witness and interpretation thereof may be videotaped.

OREGON

Strengths: Specifically provides for

certification; does not specifically name relay