

# Working with Interpreters in Tennessee Courts

## Tennessee Public Defenders/ Defense Attorneys' Information Card

2020

The AOC has funding to pay for interpreter costs:

1. During court hearings in juvenile, general sessions, trial and appellate courts.
2. Whether the case is a civil case or a criminal case.
3. Whether the parties are found indigent or not.

### Rules that Govern the Appointment, Credentialing, and Compensation of Interpreters

Tenn. S. Ct. Rules 41 and 42

Tenn. R. Evid. 604

Tenn. Code Ann. § 16-3-813

#### STEP 1

##### Determine the Language Spoken

To determine the language spoken by an individual, refer the individual to the [Language Identification Flashcard](#) developed by the U.S. Census Bureau and attached hereto. The individual can check or point to the box that indicates the language he/she speaks.

#### STEP 2

##### Appoint a Credentialed Interpreter

Appointing an interpreter is a matter of judicial discretion. It is the responsibility of the court to determine whether a participant in a legal proceeding has a limited ability to understand and communicate in English.

The Clerk's office may be asked to locate and/or provide an interpreter for court hearings. An interpreter should be located with the following preferences, as evidenced in Tenn. Supreme Court Rule (SCR) 42:

- (1) Certified
- (2) Registered
- (3) Non-Credentialed

#### STEP 3

##### Locate a Credentialed Interpreter

The AOC maintains a roster of interpreters online at [www.tncourts.gov](http://www.tncourts.gov). In the menu at the top of the webpage, put your cursor on "Programs". A drop down menu appears – click on "Court Interpreters". On the left hand side of the Court Interpreter page, click on "Find a Court Interpreter". Follow instructions to find an interpreter for the needed language. The roster is arranged alphabetically by city. If no interpreter is listed on the roster for the language you need, please contact the AOC at (615) 741-2687.

It is important to locate credentialed interpreters because certified interpreters have passed all exams. Registered interpreters are either waiting to take the oral exam or have not passed all parts of the oral exams. Non-credentialed interpreters either have not been tested or have not passed any exam.

**\*\* Credentialed interpreters are willing to travel statewide. Should there not be a credentialed interpreter in your county, please contact one in another locally.**

##### When to use a Non-Credentialed Interpreter?

A non-credentialed interpreter may be appointed upon a finding that diligent, good faith efforts to obtain the certified or registered interpreter have been made and none has been found to be reasonably available. If a language is not listed on the court roster, services of a non-credentialed interpreter may be utilized.

REMEMBER: The AOC should be contacted if you cannot find a credentialed interpreter. The AOC maintains lists of non-credentialed interpreters in languages, many of which have some court experience.

##### Unacceptable Examples of use of Non-Credentialed Interpreters for Court Hearings

- Finding someone who works across the street at the Mexican restaurant because an interpreter is needed on a short notice
- Previously retired bailiff that has minimal foreign language skills, but understands a little Spanish
- Relatives or friends of the defendant
- Someone who volunteers at the courthouse and speaks Spanish

Note: When non-credentialed interpreters are used there is a high possibility of misinterpretation that can directly affect the outcome of a case.

#### QUESTIONS AND ANSWERS:

##### Who is Responsible for Securing the Services of an Interpreter?

The Supreme Court rules do not specify whether the counsel, party, clerk's office, or the judge or the judge's office is required to secure the services of an interpreter. The judicial may have a local rule that sets out who has responsibility for securing the services of an interpreter. The trial court may resolve this matter by issuing an order placing the burden on the person or persons the court deems appropriate.

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### When Multiple Interpreters May be Used.

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

### Compensation for Spanish Interpreters Supreme Court Rule 42

#### Certified

Maximum of \$50 per hour, with a \$500 daily max.

#### Registered

Maximum of \$40 per hour, with a \$400 daily max.

#### Non-credentialed

Maximum of \$25 per hour, with a \$250 daily max.

### Compensation for Languages Other Than Spanish (LOS) – Supreme Court Rule 42

LOS Interpreters are compensated at a rate not to exceed \$75 per hour, and the maximum per day rate of \$500 unless a court makes written findings that a higher maximum hourly/per day rate is inadequate to secure the services of a qualified interpreter for an LOS interpreter.

Interpreters are also paid a 2 hour minimum per day if in-court interpretation is provided. Travel time is included within the 2 hour minimum.

Review or transcription/translation of audio or video tapes is compensated according to the rates above.

Document translation is compensated at a rate of \$.20 per word.

If the court approves an amount in excess of (\$5,000.00) for interpreter/ translator services, the order(s) and any attachments must be submitted to the AOC for prior approval.

### Checklist

- Determine the language needed.
- Locate a credentialed interpreter, if one is reasonably available.
- Consider suggesting that the interpreter briefly meet with the LEP individual prior to the proceeding to confirm the

ability to communicate, and to view the court file prior to the proceeding to become familiar with case terminology, names, and dates.

### Voir Dire to Determine Qualifications of an Interpreter

Prior to commencing the proceeding, the interpreter should be qualified on the record. If the interpreter is certified or registered, the judge may want to use a more abbreviated voir dire. A list of potential voir dire questions follow.

- Do you know or are you related to the defendant, counsel, witnesses, or any party to this case?
  - Are you aware of any reason that your impartiality may be questioned?
  - Do you speak \_\_\_\_\_?
  - Can you read and write both languages?
  - Have you completed any training to qualify you as in interpreter? If so, please describe.
  - Have you been qualified as an interpreter by any court?
  - Do you have any experience in simultaneous interpreting?
  - Do you have any experience in consecutive interpreting?
  - Do you understand that as an interpreter you must interpret everything, and that you may not summarize the testimony or other proceedings?
- Have you had an opportunity to speak with the defendant(s) or witness(es)?