

## Language Access in State Courts

### Kentucky Summary

#### A. Provides interpreters free of charge to all LEP litigants and witnesses in all civil proceedings?

##### 1. Ensures a statewide mandate is in place covering all civil proceedings? *Yes*

Kentucky has a commonwealth-wide mandate that trial courts appoint interpreters in all types of civil proceedings for witnesses, jurors, and litigants who are unable to communicate in English.<sup>1</sup>

##### 2. Does not charge for interpreters in civil proceedings? *Yes*

Parties are not responsible for the costs of interpreter services for court appearances. Funding for Kentucky's court interpreter program is provided by the Court of Justice.<sup>2</sup>

##### 3. Ensures that all LEP individuals receive interpreters in civil proceedings: Has clear guidelines for appointment, or provides an interpreter whenever one is requested? *Yes*

By statute, Kentucky courts must appoint an interpreter when a party, juror, or witness cannot "communicate in English."<sup>3</sup> Additionally, a Supreme Court rule requires that "[w]hen a party does not request an interpreter but appears to have limited ability to communicate in English, the Court shall conduct a brief voir dire to determine whether or not an interpreter is needed."<sup>4</sup> And, courts must appoint an interpreter for "[a]ny other person who has, in the opinion of the court, another type of disability which will prevent said persons from properly understanding the nature of the proceedings or will substantially prejudice his or her rights."<sup>5</sup>

#### B. Ensures that interpreters are competent by testing before appointing an interpreter in civil proceedings? *Yes, but by using the inadvisable practice of having individual judges conduct voir dire*

The Kentucky Supreme Court requires that "[a]ny person appointed/obtained to interpret for the Court of Justice . . . shall be qualified by training or experience to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary."<sup>6</sup> The Court also states that "[b]efore commencing the interpretive process, the appointing/requesting authority shall make a preliminary determination that the interpreter is able to readily communicate with the person needing the interpretive services and is able to accurately repeat and translate the statements of that person."<sup>7</sup> Apparently, this function is

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<sup>1</sup> Ky. Rev. Stat. Ann. § 30A.410.

<sup>2</sup> *Id.* §§ § 30A.410, 30A.420.

<sup>3</sup> *Id.* § 30A.410.

<sup>4</sup> Ky. Sup. Ct. R. of Admin. Proc. pt. IX, § 8(3).

<sup>5</sup> *Id.* § 4.

<sup>6</sup> *Id.* § 8.

<sup>7</sup> *Id.* § 8(4).

performed by individual judges, which is not a recommended practice, rather than by trained, dedicated court personnel.

Except as a means of last resort, all interpreters in Kentucky courts, whether staff or freelance, must be either Qualified Level I or Certified interpreters, with a preference for those who are Certified.<sup>8</sup> To become a Qualified Level I interpreter, an individual must: pass a criminal background check, pass the Kentucky English Written Test, read the Code of Professional Responsibility,<sup>9</sup> take the Interpreter Oath and submit a signed copy of the Oath, and complete a two-day orientation workshop.<sup>10</sup> Interpreters apparently can be considered “Qualified Level I” without demonstrating interpreting experience or ability, and without demonstrating fluency in the language to be interpreted.

Interpreters who wish to become Certified must also pass the Kentucky Oral Test or an approved equivalent exam.<sup>11</sup> The written exam tests both basic and courtroom specific English vocabulary, and the oral exam tests consecutive and simultaneous interpreting and sight translating abilities.<sup>12</sup> Presumably, these tests do require demonstration of interpreting ability and fluency in the language to be interpreted.

Kentucky is a member of the Consortium of State Court Interpreter Certification.<sup>13</sup> Interpreters who have been certified in other states can be recognized in Kentucky, provided that they pass a certification examination administered by the Administrative Office of the United States Courts or a National Center for State Courts Interpreter Consortium Exam.<sup>14</sup>

*The Brennan Center for Justice report, Language Access in State Courts, contains guidelines for the provision of court interpreters in civil cases. It also contains aggregate information – in the form of United States maps – regarding the extent to which the 35 states with the highest proportion of limited English proficient people (as a percentage of population) comply with the guidelines regarding providing interpreters in all civil cases and providing them free of charge.*

*This series of “state summaries” contains additional, detailed information about the extent to which the 35 states comply with those guidelines, and with the guideline regarding ensuring that interpreters are competent.*

(last updated November 2, 2009)

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<sup>8</sup> *Id.* § 8.

<sup>9</sup> Ky. Code of Prof'l Responsibility for Interpreters, available at: <http://courts.ky.gov/NR/ronlyres/FF5BB905-4902-4671-AB6D-828FF3936326/0/CodeofProfessionalResponsibility.pdf>.

<sup>10</sup> Kentucky Certification Policy, Spoken Language Interpreters, available at: <http://courts.ky.gov/NR/ronlyres/DD13D5C3-FED3-4347-87C3-AA21B3D03CF0/0/SpokenCICertificationPolicy.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> National Center for State Courts, Consortium for State Ct Interpreter Certification, Consortium Member States, available at [http://www.ncsconline.org/D\\_Research/CourtInterp/CICourtConsort.html](http://www.ncsconline.org/D_Research/CourtInterp/CICourtConsort.html).

<sup>14</sup> Ky. Sup. Ct. R. of Admin. Proc. pt. IX, § 8.