

Language Access in State Courts

Nebraska 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*

Nebraska has a statewide statutory mandate requiring the appointment of court interpreters “to assist any person unable to communicate in English.”¹ This mandate is applied to all types of civil proceedings.²

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

The cost of a court-appointed interpreter is paid for by a state appropriation from the General Fund, and is not charged to the litigant.³ Additionally, a private foundation has funded the translation of some court forms into Spanish, Arabic, and Vietnamese.⁴

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*

According to the Director of Nebraska’s Minority Justice Committee, a request for an interpreter can be made by any of the litigants, their attorneys, or the judge.⁵ Courts are required to appoint an interpreter “for any person unable to communicate in English.”⁶ The Nebraska Court Rules create “a rebuttable presumption that an interpreter must be appointed if an interpreter is requested or it is shown that the party is having difficulty in communicating.”⁷ The Trial Court Services Director reports that she has not heard of anyone ever attempting to challenge a judge’s refusal to assign an interpreter.⁸

B. Ensures that interpreters are competent by testing before appointing an interpreter in civil proceedings? *Yes, although it is unclear how the required competence assessment is performed for interpreters deemed “provisionally certified,” or who do not have a credential.*

By statute, Nebraska requires that an appointed interpreter be “readily able to communicate with the person unable to communicate the English language, translate the proceedings for him or her, and accurately repeat and translate the statements of such person to

¹ Neb. Rev. Stat. § 25-2403 (“In any proceeding the presiding judge *shall* appoint an interpreter to assist any person unable to communicate the English language.”) (emphasis added).

² Interview by Cassandra Snyder with Elizabeth Neeley, Ph.D., Director, Nebraska’s Minority Justice Committee (June 17, 2008).

³ Neb. Rev. Stat. § 25-2406; Interview with Elizabeth Neeley, *supra*; Interview with Sheryl Connolly, Trial Court Services Director, Nebraska Judicial Branch (Feb. 26, 2008).

⁴ Interview with Becky Gould and Gloria Sarmiento, Nebraska Appleseed (Apr. 4, 2008).

⁵ Interview with Elizabeth Neeley, *supra*.

⁶ Neb. Rev. Stat. § 25-2403.

⁷ Neb. Ct. R. § 6-703(F).

⁸ Interview with Sheryl Connolly, *supra*.

the jury, judge, and officials before whom such proceeding takes place.”⁹ The statute further “require[s] that interpreters demonstrate the ability to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary special vocabulary.”¹⁰

Court rules require that courts make “diligent efforts” to secure a “certified” interpreter in the language in which the interpretation service is requested.¹¹ In Nebraska, interpreters are deemed “certified” if they:

- 1) pass a written exam testing English vocabulary, court terminology, and ethics and professional conduct;
- 2) pass the Consortium’s oral exam;
- 3) are older than 18, and
- 4) do not have any criminal convictions that evidence moral turpitude, dishonesty, fraud, deceit, or misrepresentation.¹²

They will also be deemed “certified” if they have passed the federal court interpreters exam or a certification exam administered by a member of the Consortium.¹³ Interpretation is most frequently provided in Spanish, which is the only language in which “certified” interpreters are available.¹⁴ There are 21 “certified” Spanish interpreters.¹⁵ The Director of Nebraska’s Minority Justice Initiative reports that this is a dramatic increase from several years ago, when there were just six “certified” interpreters throughout the state, and that the state has made a concerted effort in recent years to recruit more interpreters.¹⁶

If obtaining a “certified” interpreter in the requested language is not practical, the court is authorized to appoint a “registered, non-certified” interpreter.¹⁷ Interpreters are deemed “registered” if they have passed a written exam or attended an interpreter orientation program, and if they have scored at least 50% on each section of the state’s oral exam.¹⁸

If a “registered, non-certified” interpreter is not available, the court may appoint a “provisionally-certified” interpreter, which is an interpreter who has passed the written component of the certification process, but who has not completed the oral exam or fulfilled the other certification requirements.¹⁹

If a “provisionally certified” interpreter is not available, “the court may appoint a court interpreter who is otherwise competent to interpret in the courts.”²⁰ To determine whether an interpreter falls into this category, the judge will interview him or her to determine the level of education and experience.²¹

⁹ Neb. Rev. Stat. § 25-2404.

¹⁰ *Id.* § 25-2407.

¹¹ Neb. Ct. R. § 6-703(A)-(B).

¹² Neb. Ct. R. § 6-704.

¹³ Interview with Sheryl Connolly, *supra*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Interview with Elizabeth Neeley, *supra*.

¹⁷ Neb. Ct. R. § 6-703(B).

¹⁸ Neb. Ct. R. § 6-702(B).

¹⁹ Interview with Sheryl Connolly, *supra*.

²⁰ Neb. Ct. R. § 6-703(C).

²¹ E-mail from Sheryl Connolly, June 15, 2009.

Despite the reported frequent need for interpreters in Vietnamese and Arabic, Nebraska has no interpreters certified to provide interpretation in these languages.²² Instead, provisionally certified, “registered interpreters” are used for spoken languages other than Spanish.²³

Nebraska is a member of the National Center for State Courts’ Consortium for State Court Interpreter Certification and uses the Consortium’s testing program.²⁴ The state’s courts will recognize interpreters who have been certified in other states on a reciprocal basis.²⁵

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)

²² Interview with Sheryl Connolly, *supra*.

²³ Neb. Ct. R. §6-703(B) (“If the court has made diligent efforts to obtain a certified court interpreter as required by § 6-703(A) and found none to be available, the court may appoint a registered non-certified court interpreter who is otherwise competent to interpret in the courts.”).

²⁴ National Center for State Courts, Consortium for State Ct. Interpreter Certification, Consortium Member States, available at http://www.ncsconline.org/D_Research/CourtInterp/Res_CtInte_ConsortMemberStatesPubNove07.doc

²⁵ Interview with Elizabeth Neeley, *supra*.