

## Language Access in State Courts

### Rhode Island 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? *No*

Rhode Island mandates the appointment of an interpreter in criminal cases and juvenile matters in family court, but not in civil proceedings.<sup>1</sup> Staff interpreters working for the state's Office of Court Interpreters do sometimes interpret in civil proceedings.<sup>2</sup> According to the director of the Supreme Court's MCLE Commission, they do this as a courtesy when their time resources allow.<sup>3</sup> However, there does not appear to be any statutory or regulatory requirement that they do so.

##### 2. Does not charge for interpreters in civil proceedings? *No*

The statutory requirement that Rhode Island will pay for interpreters applies only to criminal and juvenile matters.<sup>4</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? *No*

In Rhode Island, interpreters are appointed for any "non-English speaking" party in criminal and juvenile proceedings, unless there is written waiver by that party.<sup>5</sup> For the purpose of providing interpreters in criminal and juvenile cases, the statute defines a "non-English speaking person" as anyone who "can not readily speak or understand the English language and whose native language is either Spanish, Portuguese, Cape Verdean or Cambodian,"<sup>6</sup> but provides no greater guidance as to how a judge should determine if a party fits that description. No such definition or system exists for civil proceedings, as the state requires individuals to obtain their own interpreters in those matters.

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<sup>1</sup> R.I. Gen. Laws § 8-19-1 et seq., available at: <http://www.rilin.state.ri.us/Statutes/TITLE8/8-19/INDEX.HTM>.

<sup>2</sup> A news advisory put out by the Rhode Island Judiciary states, "The [court interpreter] office will assist in the Supreme, Superior, Family, District and Workers Compensation Courts as well as in the Traffic Tribunal." R.I. Jud., News Advisory, A New Era of Understanding with Fullness and Accuracy: The Rhode Island Judiciary Inaugurates Its Office of Court Interpreters (Nov. 12, 2004), available at:

<http://www.courts.state.ri.us/pressreleases/11-12-04interpreters.pdf>. According to an article in the Providence Journal, "The office employs six full-time bilingual English/Spanish interpreters, who assist defendants and witnesses in criminal trials, as well as litigants, defendants and witnesses in civil trials -- from landlords and tenants to domestic abusers and domestic abuse victims; from murder defendants to accident victims. Interpreters convey oral communication; they also translate written documents such as affidavits and witness statements." Karen Lee Ziner, *Court Interpreters Seek Justice in Any Language*, Providence J. (Apr. 9, 2006), available at: [http://www.projo.com/news/content/projo\\_20060409\\_interp9.329102c.html](http://www.projo.com/news/content/projo_20060409_interp9.329102c.html).

<sup>3</sup> E-mail from Holly Hitchcock, director, MCLE Commission, Rhode Island Supreme Court (May 6, 2009).

<sup>4</sup> R.I. Gen. Laws § 8-19-4.

<sup>5</sup> *Id.* § 8-19-3.

<sup>6</sup> *Id.* § 8-19-2.

**B. Ensures that interpreters are competent by testing before appointing an interpreter in civil proceedings?** *No, because the governing statute, requiring appointment of a certified interpreter if one is available, does not apply to civil proceedings.*

Because there is no statutory or regulatory requirement that interpreters be appointed in civil cases, there is no requirement that interpreters in civil cases be qualified, other than a Rule of Evidence requiring that interpreters be qualified as experts.<sup>7</sup>

By statute, for criminal and juvenile proceedings judges must appoint a “state certified interpreter.”<sup>8</sup> The state deems an interpreter “certified” if he has attained a passing score on any of the following: 1) the Spanish court interpreter exam administered by the National Association of Judiciary Interpreters and Translators, 2) the Spanish Federal Court Interpreter Certification exam, or 3) any full exam administered by the National Center for State Courts’ Consortium for State Court Interpreter.<sup>9</sup>

In criminal and juvenile proceedings, when a “certified” interpreter cannot be readily located, or where the proceeding is “of a preliminary nature,”<sup>10</sup> a judge may appoint a “qualified” interpreter.<sup>11</sup> To be deemed “qualified,” an interpreter must, “through experience and training... [be] able to translate a particular foreign language into English.”<sup>12</sup> By statute, “qualified” interpreters are those who appear “to have adequate language skills, knowledge of interpreting techniques, familiarity with interpreting in a court or hearing,”<sup>13</sup> and are familiar with, and able to adhere to, ethical guidelines. However, no further direction is given as to how a judge should go about making these findings.

*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>7</sup> R.I. R. Evid. 604.

<sup>8</sup> R.I. Gen. Laws § 8-19-3(a).

<sup>9</sup> R.I. S. Ct., Exec. Order 2009-05 (May 5, 2009), available at <http://www.courts.ri.gov/supreme/pdf-files/2009-05executiveorder.pdf>.

<sup>10</sup> R.I. Gen. Laws § 8-19-3(b)(3) (Examples of preliminary proceedings include: “arraignments; costs, restitution, and/or fine reviews; probation reviews; preliminary hearings on pretrial motions; [and] appearances before the court on bench warrants or arrest warrants.”).

<sup>11</sup> *Id.* § 8-19-3(b).

<sup>12</sup> *Id.* § 8-19-2.

<sup>13</sup> *Id.* § 8-19-3(b)(2).