Language Access in State Courts

Kansas 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, but . . .*

By statute, a court in a civil proceeding must appoint an interpreter for any plaintiff, defendant, or witness whose primary language is other than English.[1] However, we were told that in Sedgwick County interpreters are appointed only in family cases, and that in other types of cases litigants must bring their own interpreters.

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

The governing statute says that when a court appoints an interpreter it "shall" set the interpreter's compensation and "may" provide that compensation out of the court's funds. The statute also prohibits courts from charging the LEP party for the costs of an interpreter.[2]

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*

It is the duty of the court to appoint an interpreter,[3] but we could find no rules or guidelines establishing procedures by which to do so. One practitioner reports that, despite this, she has never had a request for an interpreter denied, and that the appointment process generally runs smoothly.[4] Johnson County has on-site interpreters available as needed. In Wyandotte County, a call a day or two in advance is generally sufficient to ensure an interpreter is available, but it can be more difficult to secure an interpreter in smaller or more rural counties.[5] In some instances it was the attorney who arranged for the interpreter to be present, while in other cases the judge had already done so.[6]

B. Ensures that interpreters are competent by testing before appointing an interpreter in civil proceedings? *No*

Kansas has no credentialing process for its court interpreters. Each court maintains a roster of "qualified" interpreters, but interpreters can simply sign up to be included on the list, and the State then checks their credentials without requiring further testing or certification.[7]

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[1] Kan. Stat. Ann. § 75-4351(c).
[2] Kan. Stat. Ann. § 75-4352(a).
[3] *Id.*
[4] Interview with Patricia Thomas, Kansas Legal Services, Immigrant Woman Program, Feb. 25, 2008.
[5] *Id.*
[6] *Id.*
[7] Interview with Gill Mendoza, Wyandotte County Trial Court Clerk, June 26, 2008. *See also* Sen. Jud. Comm., Report on State Court Interpreter Grant Program Act, S. 702, Report 110-436 (Aug. 1, 2008), pp. 6-7 (confirming that Kansas has no credentialing program).

The statute requires that prior to appointing an interpreter, a judge must determine that the interpreter is able communicate with the party or witness and is able to provide an accurate translation of any statements and proceedings.[8] Interpreters are required to demonstrate four categories of competencies to be appointed by a judge:

> (1) a general understanding of cultural concepts, usage and expressions of the foreign language being interpreted, including the foreign language's varieties, dialects and accents;
> (2) the ability to interpret and translate in a manner which reflects the educational level and understanding of the person whose primary language is other than English;
> (3) basic knowledge of legal rights of persons involved in law enforcement investigations, administrative matters and court proceedings and procedures, as the case may be; and
> (4) sound skills in written and oral communication between English and the foreign language being translated, including the qualified interpreter's ability to translate complex questions, answers and concepts in a timely, coherent and accurate manner.[9]

If judges were able to determine whether interpreters possess all of these capabilities, this procedure might suffice to ensure that all interpreters are competent. However, as we note in our report, having judges – who likely do not speak the target language – assess the competence of court interpreters is a suboptimal method.

Judges may also conduct an additional voir dire to establish the interpreter's specific educational background and work experiences, their acquaintance with court proceedings and interpreters' ethics, and any possible conflicts of interest.[10] Interpreters are also encouraged to observe proceedings to familiarize themselves with the procedures and vocabulary of the courtroom.[11]

Kansas is one of ten states that is not a member of the National Center for State Courts Consortium for State Court Interpreter Certification.[12]

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.*

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[8] Kan. Stat. Ann. § 75-4353(b).
[9] Kan. Stat. Ann. § 75-4353(c).
[10] Douglas County District Court, Interpreter Guidelines, Interpreters Qualifications, available at: http://www.douglas-county.com/district_court/docs/pdf/dc_interpreterguide.pdf (adapted from the Kansas Advisory Committee on Hispanic Affairs, Interpreter Handbook Ethics & Procedures).
[11] *Id*. at Courtroom Procedures.
[12] National Center for State Courts, Consortium for State Court Interpreter Certification, available at: http://www.ncsconline.org/D_RESEARCH/CourtInterp/Res_CtInte_ConsortMemberStatesPubNove07.doc

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.

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