WEST VIRGINIA CODE: §57-5-7

§57-5-7. Interpreters required.

(a) In any court proceeding wherein a party or witness or juror cannot readily understand or verbally communicate the English language because the witness or juror is deaf or because of any other hearing difficulties, such person shall have the right to have a qualified interpreter to assist the witness or juror at every stage of the proceeding. Such right shall also pertain in any proceeding before administrative boards, commissions or agencies of this state or any political subdivision or municipality thereof, and in coroners' inquests and grand jury proceedings.

(b) The director of the administrative office of the Supreme Court of Appeals shall establish a program to facilitate the use of interpreters in courts of this state and in extra-judicial criminal proceedings as provided for in this section.

(1) The director shall prescribe, determine and certify the qualifications of persons who may serve as certified interpreters in courts of this state in proceedings involving the deaf and hard of hearing. Persons certified by the director shall be interpreters certified by the national registry of interpreters for the deaf, or the West Virginia registry of interpreters for the deaf or approved by the chief of services for the deaf and hard of hearing of West Virginia of the West Virginia Division of Vocational Rehabilitation, or shall be such other persons deemed by the director to be qualified by education, training and experience. The director shall maintain a current master list of all interpreters certified by the director and shall report annually on the frequency of requests for, and the use and effectiveness of, interpreters.

(2) Each circuit court shall maintain on file in the office of the clerk of the court a list of all persons who have been certified as oral or manual interpreters for the deaf and hard of hearing by the director of the administrative office of the Supreme Court of Appeals in accordance with the certification program established pursuant to this section.

(3) In any criminal or juvenile proceeding, or other proceeding described in §51-11-5 of this code, the judge of the circuit court in which such proceeding is pending, or, if such proceeding is in a magistrate court, then the judge of the circuit court to which such proceeding may be appealed or presented for judicial review, shall, with the assistance of the director of the administrative office of the Supreme Court of Appeals, utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the judge, the services of an otherwise competent interpreter, if the judge determines on his or her own motion or on the motion of a party that such party or a witness who may present testimony in the proceeding suffers from hearing difficulties so as to inhibit such party's comprehension of the proceedings or communication with counsel or the presiding judicial officer, or so as to inhibit such witness' comprehension of questions and the presentation of such testimony. The utilization of an interpreter shall be appropriate

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at any stage of the proceeding, judicial or extra-judicial, at which a person would be entitled to representation by an attorney and a waiver of the right to counsel shall not constitute a waiver of the right to an interpreter as provided for by this section.

(c) Whenever a qualified interpreter is appointed pursuant to the provisions of subsection (b) of this section, or to accommodate a juror, the court shall, at the conclusion of the proceedings or interrogation, by order, fix the compensation of such interpreter. The compensation shall include reimbursement for all reasonable and necessary expenses actually incurred in the performance of such duties, but expenses shall not be incurred in excess of the prevailing rate for state employees. In all such appointments arising from subdivision (3), subsection (b) of this section, the compensation shall be paid by the State Auditor from the fund administered by the Supreme Court of Appeals for other court costs. In other proceedings before any circuit or magistrate court, Supreme Court of Appeals or before any administrative boards, commissions and agencies, the compensation shall be fixed by such court, board, commission or agency and paid, within the limit of available funds, by such court, board, commission or agency.

(d) In any proceeding described in subdivision (3), subsection (b) of this section, if the circuit judge does not appoint an interpreter, an individual requiring the services of an interpreter may seek the assistance of the clerk of the circuit court or the director of the administrative office of the Supreme Court of Appeals in obtaining the assistance of a certified interpreter.

(e) Whenever an interpreter is necessary in any court proceeding because a witness or party speaks only a foreign language or for any other reason, an interpreter shall be sworn truly to interpret.

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