



9/15 (the rest)
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0094/P1

RPN... King

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

head Courts and procedure
sub circuit courts

Do Not
Gen. Cat.

1 AN ACT ...; relating to: providing interpreters for persons with limited English
2 language proficiency and making an appropriation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

~~create~~

	2001-02	2002-03
3		
4	20.680	Supreme Court
5	(2)	DIRECTOR OF STATE COURTS
6	(f)	Interpreter certification, coordination and training
7	GPR	A -0- -0-

8 SECTION 1. 20.625 (1) (c) of the statutes is amended to read:
9 20.625 (1) (c) *Court Legal proceedings interpreter and assistive communication*
10 *device fees.* The amounts in the schedule to pay interpreter and assistive

1 communication device fees and costs in courts of record under s. 885.37 (4) (a) 2 (10)

✓
(a) score

→ note: bud

History: 1971 c. 125; 1975 c. 39, 283; 1977 c. 187 s. 135; 1977 c. 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 34; 1983 a. 27; 1987 a. 399; 1989 a. 122; 1991 a. 39; 1993 a. 16, 206; 1995 a. 27; 1997 a. 27; 1999 a. 9.

3 SECTION 2. 20.680 (2) (f) of the statutes is created to read:

4 20.680 (2) (f) *Interpreter certification, coordination, and training.* The amounts

5 in the schedule for the certification, coordination, and training of interpreters under

6 s. 885.37.

→ note: bud

7 SECTION 3. 20.680 (2) (kf) of the statutes is created to read:

8 20.680 (2) (kf) *Interpreter training.* All moneys received for training programs

9 for interpreters under s. 885.37, for those purposes.

→ note: bud

10 SECTION 4. 46.295 (2) (c) of the statutes is amended to read:

plain

11 46.295 (2) (c) Legal services and civil court proceedings, excluding those

12 services covered under s. 885.37 for which reimbursement is provided under s.

13 885.37 (10).

History: 1995 a. 27 ss. 2271, 2417; Stats. 1995 s. 46.295.

14 SECTION 5. 46.295 (3) of the statutes is amended to read:

15 46.295 (3) The department shall maintain lists of qualified interpreters under

16 s. 885.37 (5) (b) (8).

History: 1995 a. 27 ss. 2271, 2417; Stats. 1995 s. 46.295.

17 SECTION 6. 758.19 (8) of the statutes is created to read:

18 758.19 (8) From the appropriation under s. 20.625 (1) (c), the director of state

19 courts shall reimburse counties ~~four~~⁴ times each year for the expenses paid for

20 interpreters and assistive communications devices provided in courts of record to

21 assist persons with limited English language proficiency under s. 885.37. The

22 amount of the maximum hourly reimbursement for interpreters shall be the amount

23 established under s. 814.67 (1) (b) 2. and (d). To receive reimbursement under this

no delay
17
23

→ 12 → 1m

1 subsection, a county must submit, on forms provided by the director of state courts,
 2 an accounting of the amount paid for expenses related to interpreters and assistive
 3 communications devices that are eligible for reimbursement under this subsection.
 4 The forms must include expenses for a ~~three~~³-month period and must be submitted
 5 within 90 days after the ~~three~~³-month period has ended. The director of state courts
 6 ~~may~~^{may} not reimburse a county for any expenses related to interpreters and assistive
 7 communications devices that are submitted after the 90-day period has ended. If
 8 moneys are insufficient to pay the full reimbursement to the counties, the director
 9 of state courts may prorate the payments or may request that the joint committee on
 10 finance take action under s. 13.101. Reimbursement under this subsection first
 11 applies to interpreters and assistive communications devices expenses incurred on
 12 the first day of the ~~three~~^{3rd} month beginning after ~~publication~~^{publication} of this
 subsection... [revisor inserts date].

SECTION 7. 814.67 (1) (bm) of the statutes is created to read:

814.67 (1) (bm) For interpreters before a hearing officer in a contested case, as defined in s. 227.01 (3), a fee to be established by the agency, but if the agency is a state agency, a fee of \$35 per hour.

SECTION 8. 814.67 (1) (b) 2. of the statutes is amended to read:

814.67 (1) (b) 2. For interpreters, a fee to be established by the county, but the director of state courts shall reimburse the county not more than \$35 per one-half day hour.

History: 1981 c. 317; 1987 a. 27; 1995 a. 27.

SECTION 9. 814.67 (1) (bg) of the statutes is amended to read:

Sort, out-of-order

beginning

the effective date

1 814.67 (1) (bg) For interpreters assisting the state public defender in
2 representing an indigent in preparing for court proceedings, \$35 per ~~one-half day~~
3 hour.

4 HISTORY: 1981 c. 317; 1987 a. 27; 1995 a. 27.

4 SECTION 10. 814.67 ~~of the statutes~~ ^(1 m) is created to read:

5 814.67 (1) ~~The director of state courts shall adjust the fees paid~~ ^{for} interpreters
6 under ~~parts~~ ^g (b)(1) and (b)(2) and the maximum reimbursement to counties for fees paid
7 ~~to~~ ^{for} interpreters under ~~part~~ ^m (b) 2. to reflect the changes in the consumer price index for
8 all urban consumers, U.S. city average, as determined by the U.S. department of
9 labor, at least annually, with the adjusted limit to apply to interpreter services
10 provided subsequent to the adjustments.

11 SECTION 11. 885.37 of the statutes is repealed and recreated to read:

12 885.37 Interpreters for persons with limited English language
13 proficiency. (1) ~~DEFINITIONS~~ In this section:

14 (a) "Assistive communication device" means any equipment or machine that
15 facilitates communication by a person with limited English language proficiency.
WPO: fix all spacing in pars.

16 (c) "Certified interpreter" is an individual who meets all of the following
17 criteria:

18 1. Is readily able to interpret simultaneously and consecutively and to sight
19 translate from English into the language of an individual with limited English
20 language proficiency or from the language of that individual into English.

21 2. Is certified according to the requirements and procedures approved by the
22 supreme court.

23 (d) "Contested case" has the meaning given in s. 227.01 (3).

leave nonconsecutive pars. lettering



1 (i) "Intermediary interpreter" means a deaf or hearing-impaired interpreter
 2 who received a reverse-skills certificate from the state or from the national registry
 3 of interpreters for the deaf and who is able to assist in providing an accurate
 4 interpretation between spoken and sign language or between variants of sign
 5 language by acting as an intermediary between a deaf or hearing-impaired person
 6 and a certified interpreter or otherwise-qualified hearing interpreter.

7 (L) "Legal proceeding" means any contested case proceeding before any public
 8 agency or any proceeding in any court of record.

9 (m) "Limited English language proficiency" means any of the following:

10 1. The inability, by reason of birth or culture or because of the use of a language
 11 other than English, to adequately understand or communicate effectively in English.

12 2. The inability, due to a speech impairment, deafness, or blindness, to
 13 adequately understand or communicate effectively in English.

14 (o) "Otherwise-qualified interpreter" means a person who is readily able to
 15 interpret simultaneously and consecutively and to sight translate from English into
 16 the language of an individual with limited English language proficiency or from the
 17 language of that individual into English but who has not been certified as an
 18 interpreter by the supreme court.

19 (p) "Party in interest" means a party in a legal proceeding or a person who
 20 should be joined as a party to the action if feasible, as described in s. 803.03 (1).

21 (w) "Witness" means any natural person who has been or is expected to be
 22 summoned to testify in a legal proceeding; who by reason of having relevant
 23 information is subject to call or likely to be called to testify in a legal proceeding,
 24 whether or not any action or proceeding has as yet been commenced; or who has been

1 served with a subpoena issued under s. 885.01 or under the authority of any court
2 of this state or of the United States.

3 ³(2) The supreme court shall establish the procedures and policies for the
4 recruitment, training, and certification of persons as interpreters and for the
5 coordination, discipline, retention, and training of persons who are certified
6 interpreters.

7 ³(3) (a) In every legal proceeding and municipal court proceeding in which a
8 person with limited English language proficiency is a juror, party in interest, or
9 witness, is a parent or legal guardian of a party in interest under ch. 48, 51, 55, or 938,
10 or is a parent or legal guardian of an alleged victim in any criminal proceeding, the
11 court or hearing officer shall determine if a certified ^{interpreter} or otherwise-qualified
12 interpreter is necessary for any of the following reasons:

13 1. To interpret the legal proceedings to the person with limited English
14 language proficiency.

15 2. To interpret the testimony of the person with limited English language
16 proficiency.

17 3. To assist the court or hearing officer in performing the duties and
18 responsibilities at the legal proceeding.

19 (b) If an interpreter is determined to be necessary under par. (a) and the person
20 with limited English language proficiency is a party in interest or is a parent or legal
21 guardian of a party in interest under ch. 48, 51, 55, or 938, the court or hearing officer
22 shall make a good-faith effort to appoint a certified interpreter. If the court or
23 hearing officer finds that a certified interpreter is not reasonably available, the court
24 or hearing officer shall appoint an otherwise-qualified interpreter to interpret during

1 the proceedings, and shall include in the record of the proceedings a summary of the
2 efforts made to find and appoint a certified interpreter.

3 (c) If an interpreter is determined to be necessary under par. (a) and the person
4 with limited English language proficiency is a juror or witness, or is a parent or legal
5 guardian of an alleged victim in any criminal proceeding, the court or hearing officer
6 shall appoint a certified interpreter or an otherwise-qualified interpreter, whichever
7 is more readily available, to interpret during the proceedings.

8 (d) If the court or hearing officer appoints an interpreter under par. (b) or (c)
9 and the interpreter or a deaf or hearing-impaired person using the interpreter
10 requests that the court or hearing officer appoint an intermediary interpreter, the
11 court or hearing officer shall appoint an intermediary interpreter if that
12 appointment is necessary for the certified interpreter or otherwise-qualified
13 interpreter to perform his or her duties during the proceeding.

14 (e) An interpreter shall be appointed under par. ⁵(b) to (d) without regard to the
15 ability of the person with limited English language proficiency to pay for the costs
16 of the interpreter.

17 ^B(4)(a) A person with limited English language proficiency may waive the right
18 to an interpreter at any point in a legal proceeding if all of the following conditions
19 are met:

20 1. The court or hearing officer explains to the person with limited English
21 language proficiency on the record and through an interpreter the nature and effect
22 of the waiver.

23 2. The court or hearing officer determines on the record that the waiver has
24 been made knowingly, intelligently, and voluntarily.

1 3. The person with limited English language proficiency has been given an
2 opportunity to consult with an attorney regarding the waiver of the right to an
3 interpreter.

4 4. The court or hearing officer approves the waiver.

5 (b) At any point in the legal proceeding or municipal court proceeding, for good
6 cause, the person with limited English language proficiency may retract his or her
7 waiver and request that an interpreter be appointed.

8 § (5) If a person with limited English language proficiency is not satisfied with
9 the interpreter provided under sub. (3) (b) to (d) or (4) (b), that person may use any
10 other interpreter. If the substitution of an interpreter under this subsection will
11 delay the legal proceedings, the person with limited English language proficiency
12 must show good cause for the substitute. If an interpreter is substituted under this
13 subsection, the agency or court shall pay only the expenses of the substituting
14 interpreter that equal or are less than the amount that would have been paid to the
15 original interpreter for the same services. The person with limited English language
16 proficiency who substitutes interpreters under this subsection shall be liable for the
17 interpreter expenses that exceed the payment made by the agency or court.

18 § (6) (a) Every interpreter, before commencing his or her duties in a legal
19 proceeding, shall take a sworn oath that he or she will make a true and impartial
20 interpretation to the best of his or her ability and judgment and in accordance with
21 the standards and ethics of the interpreter profession. The supreme court may
22 approve a uniform oath for interpreters and make that oath available to courts and
23 public agencies.

24 (b) An interpreter who is regularly used by an agency or court may file a signed
25 oath with the agency or court. This procedure shall satisfy the requirements of par.

1 (a) in all legal proceedings and municipal court proceedings in which a jury is not the
2 fact finder. If a jury is the fact finder, the oath shall be read and sworn to at the
3 commencement of the legal proceeding.

4 B (7) Any party to a legal proceeding or municipal court proceedings^g may object
5 to the use of any interpreter for good cause. The court or hearing officer may remove
6 an interpreter if any of the following conditions ~~exist~~ exists

7 (a) The interpreter is unable to interpret adequately, including the interpreter's
8 self-report of that inability.

9 (b) The interpreter knowingly and willfully makes a false interpretation.

10 (c) The interpreter knowingly and willfully discloses confidential or privileged
11 information ^{that} he or she received while serving as an interpreter.

12 (d) The interpreter failed to follow interpreter standards established by the
13 supreme court.

14 (e) The interpreter failed to follow the code of professional responsibility for
15 interpreters.

16 (f) The interpreter is unable to work cooperatively with the person with limited
17 English language proficiency or with that person's counsel or representative.

18 (g) Any other good cause that the court or hearing officer finds serves the
19 interest of justice.

20 B (8) The department of health and family services[✓] shall maintain a list of
21 qualified interpreters for use ^{step} with persons who have hearing impairments. The
22 department shall distribute the list, upon request and without cost, to courts and
23 public agencies who must appoint interpreters.

24 B (9) In addition to or in lieu of providing an interpreter, a court or hearing officer
25 may, upon ~~the~~ request of a person with limited English language proficiency and for

1 good cause, make available to the person, at no cost, an appropriate assistive
2 communication device.

3 **B**(10) The necessary expenses of providing interpreters and assistive
4 communicative devices to persons with limited English language proficiency under
5 this section shall be paid as follows:

6 (a) In all legal proceedings before a court of record, the director of state courts,
7 under s. 758.19 (8), shall pay the expenses, except that the public defender shall pay
8 those expenses incurred in preparing persons represented by the public defender for
9 legal proceedings in a court of record.

10 (b) In all legal proceedings before a municipal court, the municipality shall pay
11 the expenses.

12 (c) In all legal proceedings before a public agency, the public agency shall pay
13 the expenses.

14 **SECTION 12.** 905.015 of the statutes is amended to read:

15 **905.015 Interpreters for persons with language difficulties limited**
16 **English language proficiency or hearing or speaking impairments.** If an
17 interpreter for a person with a language difficulty limited English language
18 proficiency, as defined in s. 885.37 (1) (m), or a hearing or speaking impairment
19 interprets as an aid to a communication which is privileged by statute, rules adopted
20 by the supreme court or the U.S. or state constitution, the interpreter may be
21 prevented from disclosing the communication by any person who has a right to claim
22 the privilege. The interpreter may claim the privilege but only on behalf of the
23 person who has the right. The authority of the interpreter to do so is presumed in
24 the absence of evidence to the contrary.

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SECTION 9409. Effective dates; circuit courts.

(1) This act takes effect on the first day of the 4th month beginning after publication.

(END)

*The treatment of sections 20.625(1)(c),
20.680(2)(f) and (kf), 46.295(2)(c) and (3),
758.19(8), 814.67(1)(b)2, (bg) and (bm), and (d),
885.37, and 905.015
of the statutes*

(1m)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0094/P1dn

RPN.....

img

Please review this draft carefully to ensure that it is consistent with your intent.

I was not sure if, or how, you wanted to change s. 601.62 (4).

I thought about changing s. 20.550 (1) (a), the public defender appropriation that funds interpreters, but was not sure that a change was appropriate, so I did not make any change. OK?

Is there any need to change s. 807.14 or s. 967.09? I did not think so, but if I am incorrect, let me know.

For this draft, I have included the appropriation 20.680 (2) (f) ^{s.} but have specified ~~“\$0” for expenditure in fiscal years 2001-02 and 2002-03. When you know the dollar amounts that you need to include in the proposal, contact me and I will either redraft the proposal or draft an amendment, whichever is appropriate.~~

The definition of “legal proceeding” in the proposed draft did not include administrative hearings. I thought you wanted to include them, but I am unsure of the funding for those types of hearings. See my language changes.

Do you want a delayed effective date? Generally, for a change of this magnitude, you may want to delay it until ~~4-6~~ month after the bill is passed. I added a 4-month delay.

The bill requires interpreters to follow the code of professional responsibility for interpreters. Does such a code exist? How can I cite to that code? Should I just refer to supreme court requirements?

4 to 6

Robert P. Nelson
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0094/P1dn
RPN:kmg:km

September 13, 2000

Please review this draft carefully to ensure that it is consistent with your intent.

I was not sure if, or how, you wanted to change s. 601.62 (4).

I thought about changing s. 20.550 (1) (a), the public defender appropriation that funds interpreters, but was not sure that a change was appropriate, so I did not make any change. OK?

Is there any need to change s. 807.14 or 967.09? I did not think so, but if I am incorrect, let me know.

For this draft, I have included the appropriation s. 20.680 (2) (f).

The definition of "legal proceeding" in the proposed draft did not include administrative hearings. I thought you wanted to include them, but I am unsure of the funding for those types of hearings. See my language changes.

Do you want a delayed effective date? Generally, for a change of this magnitude, you may want to delay it until 4 to 6 months after the bill is passed. I added a 4-month delay.

The bill requires interpreters to follow the code of professional responsibility for interpreters. Does such a code exist? How can I cite that code? Should I just refer to supreme court requirements?

Robert P. Nelson
Senior Legislative Attorney
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E-mail: robert.nelson@legis.state.wi.us



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: providing interpreters for persons with limited English
2 language proficiency and making an appropriation.

ability to speak or understand

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

CIRCUIT COURTS

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.625 (1) (c) of the statutes is amended to read:

20.625 (1) (c) ~~Court~~ Legal proceedings interpreter and assistive communication

device fees. The amounts in the schedule to pay interpreter ~~and~~ assistive communication device fees and costs in courts of record under s. 885.37(4)(a) 2. (10)

(a) 885.37

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

change to (a)

1 an accounting of the amount paid for expenses related to interpreters ~~and~~ assistive
 2 ~~communications devices~~ that are eligible for reimbursement under this subsection.
 3 The forms must include expenses for a 3-month period and must be submitted within
 4 90 days after the 3-month period has ended. The director of state courts may not
 5 reimburse a county for any expenses related to interpreters ~~and~~ assistive
 6 ~~communications devices~~ that are submitted after the 90-day period has ended. If
 7 moneys are insufficient to pay the full reimbursement to the counties, the director
 8 of state courts may prorate the payments or may request that the joint committee on
 9 finance take action under s. 13.101. Reimbursement under this subsection first
 10 applies to interpreters ~~and~~ assistive ~~communications devices~~ expenses incurred on
 11 the first day of the 3rd month beginning after the effective date of this subsection
 12 [revisor inserts date].

*inc \$20 per hr for certified
 in a 15 min session in.*

13 **SECTION 7.** 814.67 (1) (b) 2. of the statutes is amended to read:

14 814.67 (1) (b) 2. For interpreters, a fee to be established by the county, but the
 15 *for the county's actual cost, not to exceed*
 director of state courts shall reimburse the county not more than \$35 per one-half
 16 day hour.

*put here
 cert inf*

17 **SECTION 8.** 814.67 (1) (bg) of the statutes is amended to read:

18 814.67 (1) (bg) For interpreters assisting the state public defender in
 19 representing an indigent in preparing for court proceedings, \$35 per one-half day
 20 hour.

*leave
 out*

put back in 83.39.

21 **SECTION 9.** 814.67 (1) (bm) of the statutes is created to read:

22 814.67 (1) (bm) For interpreters before a hearing officer in a contested case, as
 23 defined in s. 227.01 (3), a fee to be established by the agency, but if the agency is a
 24 state agency, a fee of \$35 per hour.

25 **SECTION 10.** 814.67 (1m) of the statutes is created to read:

1 **SECTION 2.** 20.680 (2) (f) of the statutes is created to read:

2 20.680 (2) (f) *Interpreter certification, coordination, and training.* The
3 amounts in the schedule for the certification, coordination, and training of
4 interpreters under s. 885.37.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 3.** 20.680 (2) (kf) of the statutes is created to read:

6 20.680 (2) (kf) *Interpreter training.* All moneys received for training programs
7 for interpreters under s. 885.37, for those purposes.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 4.** 46.295 (2) (c) of the statutes is amended to read:

9 46.295 (2) (c) Legal services and civil court proceedings, excluding those
10 services covered under s. 885.37 for which reimbursement is provided under s.
11 885.37 (10).

12 **SECTION 5.** 46.295 (3) of the statutes is amended to read:

13 46.295 (3) The department shall maintain lists of qualified interpreters under
14 s. 885.37 (5) (b) ~~(8)~~. *no change?*

15 **SECTION 6.** 758.19 (8) of the statutes is created to read:

16 758.19 (8) From the appropriation under s. 20.625 (1) (c), the director of state
17 courts shall reimburse counties 4 times each year for the expenses paid for
18 interpreters and assistive communications devices ^{required by} provided in courts of record to
19 assist persons with limited English language proficiency under s. 885.37. ¹⁰ The
20 amount of the maximum hourly reimbursement for interpreters shall be the amount
21 established under s. 814.67 (1) (b) 2. and (1m). To receive reimbursement under this
22 subsection, a county must submit, on forms provided by the director of state courts,

1 814.67 (1m) The director of state courts shall adjust the fees paid for
2 interpreters under sub. (1) (bg) and (bm) and the maximum reimbursement to
3 counties for fees paid for interpreters under sub. (1) (b) 2. to reflect the changes in
4 the consumer price index for all urban consumers, U.S. city average, as determined
5 by the U.S. department of labor, ~~at least~~ annually, with the adjusted limit to apply
6 to interpreter services provided subsequent to the adjustments.

7 **SECTION 11.** 885.37 of the statutes is repealed and recreated to read:

8 **885.37 Interpreters for persons with limited English language**
9 **proficiency. (1)** In this section:

10 (a) "Assistive communication device" means any equipment or machine that
11 facilitates communication by a person with limited English language proficiency.

12 (c) "Certified interpreter" is an individual who meets all of the following
13 criteria:

14 1. Is readily able to ^{accurately} interpret simultaneously and consecutively and to sight
15 translate from English into the language of an individual with limited English
16 language proficiency ^{and} ~~or~~ from the language of that individual into English.

17 2. Is certified according to the requirements and procedures approved by the
18 supreme court.

19 (d) "Contested case" has the meaning given in s. 227.01 (3).

20 (i) "Intermediary interpreter" means a deaf or hearing-impaired interpreter
21 who received a reverse-skills certificate from the state or from the national registry
22 of interpreters for the deaf and who is able to assist in providing an accurate
23 interpretation between spoken and sign language or between variants of sign
24 language by acting as an intermediary between a deaf or hearing-impaired person
25 and a certified interpreter or otherwise-qualified hearing interpreter.

1 *Court*
(L) "~~Legal~~ proceeding" means any contested case proceeding before any public
2 agency or any proceeding *before a* court of record.

3 (m) "Limited English language proficiency" means any of the following:

4 1. The inability, by reason of birth or culture or because of the use of a language
5 other than English, to adequately understand or communicate effectively in English.

6 2. The inability, due to a *hearing loss,* deafness, or *deaf-* blindness, to
7 adequately *hear,* understand or communicate effectively in English.

8 (o) "~~Otherwise~~ qualified interpreter" means a person who *the court has found* is readily able to
9 interpret simultaneously and consecutively and to sight translate from English into
10 the language of an individual with limited English language proficiency *and* or from the
11 language of that individual into English, but who has not been certified as an
12 interpreter by the supreme court. *In a legal proceeding*

13 (p) "Party in interest" means a party in a legal proceeding or a person who
14 should be joined as a party to the action if feasible, as described in s. 803.03 (1).

15 (w) "Witness" means any natural person who has been or is expected to be
16 summoned to testify in a legal proceeding; who by reason of having relevant
17 information is subject to call or likely to be called to testify in a legal proceeding,
18 whether or not any action or proceeding has as yet been commenced; or who has been
19 served with a subpoena issued under s. 885.01 or under the authority of any court
20 of this state or of the United States.

21 (2) The supreme court shall establish the procedures and policies for the
22 recruitment, training, and certification of persons as interpreters *to be used in court* and for the
23 coordination, discipline, retention, and training of ~~persons who are certified~~
24 interpreters.

1 (3) (a) In every legal proceeding and municipal court proceeding in which a
 2 person with limited English language proficiency is a juror, party in interest, or
 3 witness, is a parent or legal guardian of a party in interest under ch. 48, 51, 55, or
 4 938, or is a parent or legal guardian of an alleged victim in any criminal proceeding,
 5 the court or hearing officer shall determine if a certified interpreter or
 6 otherwise-qualified interpreter is necessary for any of the following reasons:

- 7 1. To interpret the legal proceedings to the person with limited English
- 8 language proficiency.
- 9 2. To interpret the testimony of the person with limited English language
- 10 proficiency.
- 11 3. To assist the court or hearing officer in performing the duties and
- 12 responsibilities at the legal proceeding.

13 (b) If an interpreter is determined to be necessary under par. (a) and the person
 14 with limited English language proficiency is a party in interest or is a parent or legal
 15 guardian of a party in interest under ch. 48, 51, 55, or 938, the court or hearing officer
 16 shall make a good-faith effort to appoint a certified interpreter. If the court or
 17 hearing officer finds that a certified interpreter is not reasonably available, the court
 18 or hearing officer shall appoint an otherwise-qualified interpreter to interpret
 19 during the proceedings, and shall include in the record of the proceedings a summary
 20 of the efforts made to find and appoint a certified interpreter.

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 24 shall appoint a certified interpreter or an otherwise-qualified interpreter, whichever
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1 (d) If the court or hearing officer appoints an interpreter under par. (b) or (c)
2 and the interpreter or a deaf or hearing-impaired person using the interpreter
3 requests that the court or hearing officer appoint an intermediary interpreter, the
4 court or hearing officer shall appoint an intermediary interpreter if that
5 appointment is necessary for the certified interpreter or otherwise-qualified
6 interpreter to perform his or her duties during the proceeding.

7 (e) An interpreter shall be appointed under ~~pars. (b) to (d)~~ ^{this subg.} without regard to
8 the ability of the person with limited English language proficiency to pay for the costs
9 of the interpreter.

10 (4) (a) A person with limited English language proficiency may waive the right
11 to an interpreter at any point in a legal proceeding if all of the following conditions
12 are met:

13 1. The court or hearing officer explains to the person with limited English
14 language proficiency on the record and through an interpreter the nature and effect
15 of the waiver.

16 2. The court or hearing officer determines on the record that the waiver has
17 been made knowingly, intelligently, and voluntarily.

18 3. The person with limited English language proficiency has been given an
19 opportunity to consult with an attorney regarding the waiver of the right to an
20 interpreter.

21 4. The court or hearing officer approves the waiver.

22 (b) At any point in the ^{court} legal proceeding or ~~municipal court~~ proceeding, for good
23 cause, the person with limited English ~~language~~ proficiency may retract his or her
24 waiver and request that an interpreter be appointed.

1 (5) If a person with limited English language proficiency is not satisfied with
2 the interpreter provided under sub. (3) (b) to (d) or (4) (b), that person may use any
3 other interpreter. If the substitution of an interpreter under this subsection will
4 delay the legal proceedings, the person with limited English language proficiency
5 must show good cause for the substitute. If an interpreter is substituted under this
6 subsection, the agency or court shall pay only the expenses of the substituting
7 interpreter that equal or are less than the amount that would have been paid to the
8 original interpreter for the same services. The person with limited English language
9 proficiency who substitutes interpreters under this subsection shall be liable for the
10 interpreter expenses that exceed the payment made by the agency or court.

11 (6) (a) Every interpreter, before commencing his or her duties in a legal
12 proceeding, shall take a sworn oath that he or she will make a true and impartial
13 interpretation to the best of his or her ability and judgment and in accordance with
14 the standards and ethics of the interpreter profession. The supreme court may
15 approve a uniform oath for interpreters and make that oath available to courts and
16 public agencies.

17 (b) An interpreter who is regularly used by an agency or court may file a signed
18 oath with the agency or court. This procedure shall satisfy the requirements of par.
19 (a) in all legal proceedings and municipal court proceedings in which a jury is not the
20 fact finder. If a jury is the fact finder, the oath shall be read and sworn to at the
21 commencement of the legal proceeding.

22 (7) Any party to a legal proceeding or ^{court} municipal court proceeding may object
23 to the use of any interpreter for good cause. The court or hearing officer may remove
24 an interpreter if any of the following conditions exists:

1 (a) The interpreter is unable to interpret adequately, including the interpreters
2 self-report of that inability.

3 (b) The interpreter knowingly and willfully makes a false interpretation.

4 (c) The interpreter knowingly and willfully discloses confidential or privileged
5 information that he or she received while serving as an interpreter.

6 (d) The interpreter failed to follow interpreter standards established by the
7 supreme court.

8 (e) The interpreter failed to follow the code of professional responsibility for
9 interpreters.

10 (f) The interpreter is unable to work cooperatively with the person with limited
11 English language proficiency or with that person's counsel or representative.

12 (g) Any other good cause that the court or hearing officer finds serves the
13 interest of justice.

14 (8) The department of health and family services shall maintain a list of
15 qualified interpreters for use with persons who have hearing impairments. The
16 department shall distribute the list, upon request and without cost, to courts and
17 public agencies who must appoint interpreters.

18 (9) In addition to or in lieu of providing an interpreter, a court or hearing officer
19 may, upon request of a person with limited English language proficiency and for good
20 cause, make available to the person ~~at no cost~~, an appropriate assistive
21 communication device.

22 (10) The necessary expenses of providing interpreters and ~~assistive~~
23 ~~communicative devices~~ to persons with limited English language proficiency under
24 this section shall be paid as follows:

to sup of, sup of court shall pay, but Col R, CSA

1 (a) In all legal proceedings before a court of record, the director of state courts,
2 under s. 758.19 (8), shall pay the expenses, except that the public defender shall pay
3 those expenses incurred in preparing persons represented by the public defender for
4 legal proceedings in a court of record.

5 (b) In all legal proceedings before a municipal court, the municipality shall pay
6 the expenses.

7 (c) In all legal proceedings before a public agency, the public agency shall pay
8 the expenses.

9 SECTION 12. 905.015 of the statutes is amended to read:

10 **905.015 Interpreters for persons with language difficulties limited**
11 **English language proficiency or hearing or speaking impairments.** If an
12 interpreter for a person with a language difficulty limited English language
13 proficiency, as defined in s. 885.37 (1) (m), or a hearing or speaking impairment
14 interprets as an aid to a communication which is privileged by statute, rules adopted
15 by the supreme court or the U.S. or state constitution, the interpreter may be
16 prevented from disclosing the communication by any person who has a right to claim
17 the privilege. The interpreter may claim the privilege but only on behalf of the
18 person who has the right. The authority of the interpreter to do so is presumed in
19 the absence of evidence to the contrary.

20 SECTION 9409. Effective dates; circuit courts.

21 (1) The treatment of sections 20.625 (1) (c), 20.680 (2) (f) and (kf), 46.295 (2) (c)
22 and (3), 758.19 (8), 814.67 (1) (b) 2., (bg), and (bm), and (1m), 885.37, and 905.015 of
23 the statutes takes effect on the first day of the 4th month beginning after publication.

Nelson, Robert P.

From: Marcia.Vandercook@courts.state.wi.us
Sent: Monday, September 25, 2000 2:55 PM
To: Nelson, Robert P.
Cc: David.Suchman@courts.state.wi.us
Subject: Second draft of court interpreter statute



stat draft #2.doc

Here is the completed version of this morning's memo, revised to reflect our discussion. I'll be thinking about the out-of-court proceedings. Thanks so much for your work on this. Marcia

To: Bob Nelson, LRB
From: Marcia Vandercook, Court Operations
Date: 9/25/00
Re: Changes to first draft of interpreter statute

The court interpreter committee would like three major changes to the first draft:

- 1) separate statute for courts of record -- §885.38
leave agencies, municipal courts, PD unchanged – §885.37
- 2) certification procedures will go in court rules
- 3) assistive communication devices = hardware, ADA costs borne by county

Preamble: can we have one, to this effect?

§885.38 (1) Policy Declaration

It is hereby declared to be the policy of this state to secure the rights, constitutional and otherwise, of persons, who either because of a non-English speaking background or because they are deaf or hard-of-hearing, have difficulty in adequately understanding or communicating in the English language when they appear in courts or are involved in court-ordered obligations.

It is the intent of this Act to provide appointment and use of qualified interpreters to secure the proper administration of justice in all proceedings taking place in courts of record in Wisconsin. The legislature is convinced that having qualified interpreters when the need arises increases the integrity, efficiency and accountability of court proceedings. (Taken from the Model Interpreter Act).

Section 1: return to original language, just change statute number

Section 2: omit, not needed, will go to DOSC general program operations

Section 3: omit, not in budget document, not pursuing this year

Section 4: now 885.38

Section 5: keep for 885.37, omit for 885.38

Section 6: take out assistive communications devices – is county ADA responsibility instead of provided, say “required by a court of record”
court fiscal officer still needs to review

Section 7: add “actual costs not to exceed”

\$40 for the first hour for certified interpreters, \$30 per hour for uncertified interpreters then \$20 per half hour for certified and \$15 per half for uncertified
fee is per hour per interpreter
while interpreting in court, at counter, as required by court – not travel time
add definition of certified interpreter from §11(1)(c)
leave in current provision re travel time – will not reimburse
in supreme court & court of appeals, a fee established by the court

Sections 8 & 9: not changing PD, agencies

Section 10: ~~at least~~ annually

Section 11(1): now 885.38 for courts of record alone – muni courts considered in future

(a) not needed

(c) certified = (c)(2) – move to §814.67

(d) omit

(i) omit

(L) “court proceeding” means any proceeding before any court of record.

[doesn't add much -- how will out-of-court proceedings be covered?]

(m) limited English ~~language~~ proficiency

(m)(1) The inability, ~~by reason of birth or culture or~~ because of the use of a language other than English to adequately understand or communicate effectively in English in a court proceeding.

(m)(2) The inability, due to a speech impariment, hearing loss, deafness, or deaf-blindness, or other disability, to adequately hear, understand, or communicate effectively in English in a court proceeding.

(o) ~~Otherwise~~ qualified interpreter means a person who the court has found is readily able to accurately interpret simultaneously and consecutively and to sight translate from English into the language of an individual with limited English language proficiency and from the language of that individual into English in a court proceeding.

(p) & (w) are they standard, necessary? *No -*

Section 11(2): training of ~~persons who are certified~~ interpreters

Section 11(3)

(3)(a) revise (see below)

(3)(b) omit

(3)(c) omit

(3)(d) omit

(3)(e) OK – no recoupment clause

(3)(a) The court shall appoint a qualified interpreter if the court determines that a person has limited English proficiency and the person is one of the following:

1. a party in interest.
2. a witness.
3. an alleged victim of a crime as defined in ch. 950.
4. a parent of a minor party in interest or the legal guardian of a party in interest.
5. a parent of a minor victim or legal guardian of a victim as defined in ch. 950.

(3)(b) The court may appoint more than one interpreter when necessary.

(3)(c) **out-of-court proceedings: MV to think further**

(3)(d) If a person with limited English proficiency as defined by subsec.(1)(m)2. is part of a jury panel, the court shall appoint a qualified interpreter.

(3)(e) An interpreter shall be appointed under this subsection without regard to the ability of the person of limited English proficiency to pay for the costs of the interpreter.

Section 11(4): OK to leave in for now; in the alternative, may stick with current language
MV to review

Section 11(5) omit – will go in rules

Section 11(6)(a) – Every interpreter, before commencing his or her duties in a court proceeding, shall take a sworn oath that he or she will make a true and impartial interpretation of all the proceedings ~~to the best of his or her ability and judgment and in accordance with the standards and ethics of the interpreter profession.~~ The supreme court may approve a uniform oath for interpreters and ~~make that oath available to courts and public agencies.~~

omit (b)

Section 11(7) Any party to a court proceeding ~~or municipal court proceeding~~ may object to the use of any interpreter for good cause.

omit rest of (7)

Section 11(8) can omit; we don't need it

Section 11(9) can omit, may cause confusion about county responsibilities under the ADA

Section 11(10)(a): in the Supreme Court, by the supreme court -- 680(1)(a)

(b) in the Court of Appeals, by the court of appeals – 66(1)(a)

(c) in the circuit court, by the director of state courts, under §758.19(8), shall pay the expenses.

(d) municipality, PD, administrative hearings – go in §885.37

Section 12 Interpreters for persons with ~~language difficulties~~ limited English proficiency ~~or speaking or hearing impairments.~~ -- take out last phrase

Section 9409: 7th month

Nelson, Robert P.

From: Marcia.Vandercook@courts.state.wi.us
Sent: Monday, September 25, 2000 3:56 PM
To: Nelson, Robert P.
Cc: David.Suchman@courts.state.wi.us
Subject: Municipal courts

I spoke with the committee's former municipal court judge. He said he mostly used interpreters in cases where he was sending someone to jail for failure to pay a forfeiture. It isn't criminal, but it's jail. He said all his interpreter usage fell under sec. 885.37(2), cases other than those listed in (1).

We did a survey of municipal court judges, and heard that they use interpreters in traffic cases also. Milwaukee has a staff interpreter for Spanish, so I'd guess they provide interpreting for most kinds of cases. Sounds like we need some general language giving municipal courts the power to appoint interpreters as needed.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ^{DON'T GEN. CAT} relating to: providing interpreters for persons with limited ^{ability to speak or understand} English ^{the}
2 language proficiency and making an appropriation.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

CIRCUIT COURTS

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 20.625 (1) (c) of the statutes is amended to read:
4 20.625 (1) (c) ~~Court~~ Legal proceedings interpreter and assistive communication
5 device fees. The amounts in the schedule to pay interpreter and assistive
6 communication device fees and costs in courts of record under s. 885.37 (4) (a) 2. (10)
7 (a).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 SECTION 2. 20.680 (2) (f) of the statutes is created to read:

2 20.680 (2) (f) *Interpreter certification, coordination, and training.* The
3 amounts in the schedule for the certification, coordination, and training of
4 interpreters under s. 885.37.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 SECTION 3. 20.680 (2) (kf) of the statutes is created to read:

6 20.680 (2) (kf) *Interpreter training.* All moneys received for training programs
7 for interpreters under s. 885.37, for those purposes.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 SECTION 4. 46.295 (2) (c) of the statutes is amended to read:

9 46.295 (2) (c) Legal services and civil court proceedings, excluding those
10 services covered under s. 885.37 for which reimbursement is provided under s.

11 ~~885.37(10)~~ 758.19(8)

12 SECTION 5. 46.295 (3) of the statutes is amended to read:

13 46.295 (3) The department shall maintain lists of qualified interpreters under
14 s. 885.37 (5) (b) ~~(8)~~.

15 SECTION 6. 758.19 (8) of the statutes is created to read:

16 758.19 (8) ^(a) From the appropriation under s. 20.625 (1) (c), the director of state
17 courts shall reimburse counties 4 times each year for the ^{actual} expenses paid for
18 interpreters ~~and~~ ^{required by circuit} assistive communications devices ~~provided in~~ ^{of record} courts to
19 assist persons with limited English language proficiency under s. 885.37. The

20 amount of the maximum hourly reimbursement for interpreters shall be the amount
21 established under s. 814.67 (1) (b) 2, and (1m). ^(b) To receive reimbursement under ~~the~~

22 (subsection), a county must submit, on forms provided by the director of state courts,

→ par. (a)

insert
2-8

7.
11
14

21

1 an accounting of the amount paid for expenses related to interpreters and assistive
 2 ~~communications devices~~ that are eligible for reimbursement under ~~this subsection~~. ^{par. (a)}
 3 The forms must include expenses for a 3-month period and must be submitted within
 4 90 days after the 3-month period has ended. The director of state courts may not
 5 reimburse a county for any expenses related to interpreters and ~~assistive~~
 6 ~~communications devices~~ that are submitted after the 90-day period has ended. If
 7 moneys are insufficient to pay the full reimbursement to the counties, the director
 8 of state courts may prorate the payments or may request that the joint committee on
 9 finance take action under s. 13.101. Reimbursement under ^{par. (a)} ~~this subsection~~ first
 10 applies to interpreters and assistive communications devices expenses incurred on
 11 the first day of the ^{4th} ~~3rd~~ month beginning after the effective date of this ~~subsection~~ ...
 12 [revisor inserts date]. ^{paragraph}

Move
from p 4
L1-6
KAT

13 **SECTION 7.** 814.67 (1) (b) 2. of the statutes is amended to read:
 14 814.67 (1) (b) 2. For interpreters, a fee to be established by the county, but the
 15 director of state courts shall reimburse the county not more than \$35 per one-half
 16 day hour.
 17 **SECTION 8.** 814.67 (1) (bg) of the statutes is amended to read:
 18 814.67 (1) (bg) For interpreters assisting the state public defender in
 19 representing an indigent in preparing for court proceedings, \$35 per ~~one-half day~~
 20 hour.
 21 **SECTION 9.** 814.67 (1) (bm) of the statutes is created to read:
 22 814.67 (1) (bm) For interpreters before a hearing officer in a contested case, as
 23 defined in s. 227.01 (3), a fee to be established by the agency, but if the agency is a
 24 state agency, a fee of \$35 per hour.

Insert
3-24

25 **SECTION 10.** 814.67 (1m) of the statutes is created to read:

1 ~~814.67 (1m)~~ ^(c) The director of state courts shall adjust the fees paid for
 2 interpreters under sub. (1) (b) and (bm) and the maximum reimbursement to
 3 counties for fees paid for interpreters under sub. (1) (b) ^{par. (c)} to reflect the changes in
 4 the consumer price index for all urban consumers, U.S. city average, as determined
 5 by the U.S. department of labor, at least annually with the adjusted limit to apply
 6 to interpreter services provided subsequent to the adjustments.

"KAA"
 move
 to p. 3
 line 12

7 **SECTION 11.** 885.37 of the statutes is repealed and recreated to read:

8 ~~SEC #. 885.37 of the statutes is created to read:~~
885.37 Interpreters for persons with limited English language

insert
 4-7

9 **proficiency. (1)** In this section:

10 (a) "Assistive communication device" means any equipment or machine that
 11 facilitates communication by a person with limited English language proficiency.

12 (c) "Certified interpreter" is an individual who meets all of the following
 13 criteria:

14 1. Is readily able to interpret simultaneously and consecutively and to sight
 15 translate from English into the language of an individual with limited English
 16 language proficiency or from the language of that individual into English.

17 2. Is certified according to the requirements and procedures approved by the
 18 supreme court.

19 (d) "Contested case" has the meaning given in s. 227.01 (3).

20 (i) "Intermediary interpreter" means a deaf or hearing-impaired interpreter
 21 who received a reverse-skills certificate from the state or from the national registry
 22 of interpreters for the deaf and who is able to assist in providing an accurate
 23 interpretation between spoken and sign language or between variants of sign
 24 language by acting as an intermediary between a deaf or hearing-impaired person
 25 and a certified interpreter or otherwise-qualified hearing interpreter.

1 (A) ^{a court} "Legal proceeding" means any contested case proceeding before any public
2 agency or any proceeding ^{before a} in any court of record. ^{or other disability}

3 (B) ^b "Limited English language proficiency" means any of the following:
4 1. The inability, ^{by reason of birth or culture or because of the use of a language}
5 other than English, to adequately understand or communicate effectively in English. ^{in a court proceeding}

6 2. The inability, due to a speech impairment, ^{hearing loss, deafness, or} blindness, ^{deaf-}
7 adequately ^{hear,} understand, or communicate effectively in English. ^{in a court proceeding}

8 (C) ^c "Otherwise-qualified interpreter" means a person ^{the court has found} who is readily able to
9 interpret simultaneously and consecutively and to sight translate from English into
10 the language of an individual with limited English ~~language~~ proficiency ^{and} from the
11 language of that individual into English ^{but who has not been certified as an}
12 interpreter by the supreme court. ^{in a court proceeding}

13 (D) ^d "Party in interest" means a party in a ^{court} legal proceeding or a person who
14 should be joined as a party to the action if feasible, as described in s. 803.03 (1).
15 (E) ^e "Witness" means any natural person who has been or is expected to be
16 summoned to testify in a ^{court} legal proceeding; who by reason of having relevant
17 information is subject to call or likely to be called to testify in a ^{court} legal proceeding,
18 whether or not any action or proceeding has as yet been commenced; or who has been
19 served with a subpoena issued under s. 885.01 or under the authority of any court
20 of this state or of the United States.

21 (2) The supreme court shall establish the procedures and policies for the
22 recruitment, training, and certification of persons ^{to act} as interpreters ^{in a court proceeding} and for the
23 coordination, discipline, retention, and training of persons who are certified
24 ^{those} interpreters. ^{qualified}

Court
1 (3) (a) In every ~~legal~~ proceeding and ~~municipal court~~ proceeding in which a
2 person with limited English ~~language~~ proficiency is a juror, party in interest, or
3 witness, is a parent or legal guardian of a party in interest under ch. 48, 51, 55, or
4 938, or is a parent or legal guardian of an alleged victim in any criminal proceeding,
5 the court or hearing officer shall determine if a certified interpreter or
6 otherwise-qualified interpreter is necessary for any of the following reasons:

7 1. To interpret the legal proceedings to the person with limited English
8 language proficiency.

9 2. To interpret the testimony of the person with limited English language
10 proficiency.

11 3. To assist the court or hearing officer in performing the duties and
12 responsibilities at the legal proceeding.

13 (b) If an interpreter is determined to be necessary under par. (a) and the person
14 with limited English language proficiency is a party in interest or is a parent or legal
15 guardian of a party in interest under ch. 48, 51, 55, or 938, the court or hearing officer
16 shall make a good-faith effort to appoint a certified interpreter. If the court or
17 hearing officer finds that a certified interpreter is not reasonably available, the court
18 or hearing officer shall appoint an otherwise-qualified interpreter to interpret
19 during the proceedings, and shall include in the record of the proceedings a summary
20 of the efforts made to find and appoint a certified interpreter.

21 (c) If an interpreter is determined to be necessary under par. (a) and the person
22 with limited English language proficiency is a juror or witness, or is a parent or legal
23 guardian of an alleged victim in any criminal proceeding, the court or hearing officer
24 shall appoint a certified interpreter or an otherwise-qualified interpreter, whichever
25 is more readily available, to interpret during the proceedings.

Insert
7-6

1 (d) If the court or hearing officer appoints an interpreter under par. (b) or (c)
 2 and the interpreter or a deaf or hearing-impaired person using the interpreter
 3 requests that the court or hearing officer appoint an intermediary interpreter, the
 4 court or hearing officer shall appoint an intermediary interpreter if that
 5 appointment is necessary for the certified interpreter or otherwise-qualified
 6 interpreter to perform his or her duties during the proceeding.

7 (e) ~~an~~ ^{A qualified} interpreter shall be appointed under ~~par. (b) to (d)~~ ^{this subsection} without regard to
 8 the ability of the person with limited English ~~language~~ proficiency to pay for the costs
 9 of the ~~interpreter.~~ ^{qualified}

10 (4) (a) A person with limited English ~~language~~ proficiency may waive the right
 11 to ~~an~~ ^{a qualified} interpreter at any point in a legal proceeding if all of the following conditions
 12 are met:

13 1. The court or hearing officer explains to the person with limited English
 14 ~~language~~ proficiency on the record and through ~~an~~ ^{a qualified} interpreter the nature and effect
 15 of the waiver.

16 2. The court or hearing officer determines on the record that the waiver has
 17 been made knowingly, intelligently, and voluntarily.

18 3. The person with limited English ~~language~~ proficiency has been given an
 19 opportunity to consult with an attorney regarding the waiver of the right to ~~an~~
 20 ~~interpreter.~~ ^{a qualified}

21 4. The court or hearing officer approves the waiver.

22 (b) At any point in the legal proceeding or municipal court proceeding, for good
 23 cause, the person with limited English ~~language~~ proficiency may retract his or her
 24 waiver and request that ~~an~~ interpreter be appointed.

a qualified

(5) If a person with limited English language proficiency is not satisfied with the interpreter provided under sub. (3) (b) to (d) or (4) (b), that person may use any other interpreter. If the substitution of an interpreter under this subsection will delay the legal proceedings, the person with limited English language proficiency must show good cause for the substitute. If an interpreter is substituted under this subsection, the agency or court shall pay only the expenses of the substituting interpreter that equal or are less than the amount that would have been paid to the original interpreter for the same services. The person with limited English language proficiency who substitutes interpreters under this subsection shall be liable for the interpreter expenses that exceed the payment made by the agency or court.

(6) ⁵ Every ^{qualified} interpreter, before commencing his or her duties in a ^{legal court} proceeding, shall take a sworn oath that he or she will make a true and impartial interpretation to the best of his or her ability and judgment and in accordance with the standards and ethics of the interpreter profession. The supreme court may approve a uniform oath for ^{qualified} interpreters and make that oath available to courts and public agencies.

(b) An interpreter who is regularly used by an agency or court may file a signed oath with the agency or court. This procedure shall satisfy the requirements of par. (a) in all legal proceedings and municipal court proceedings in which a jury is not the fact finder. If a jury is the fact finder, the oath shall be read and sworn to at the commencement of the legal proceeding.

(7) Any party to a ^{court} legal proceeding or ~~municipal court proceeding~~ may object to the use of any ^{qualified} interpreter for good cause. The court or hearing officer may remove ^{a qualified} an interpreter if any of the following conditions exists: *for good cause. as shown*

1 (a) The interpreter is unable to interpret adequately, including the interpreters
2 self-report of that inability.

3 (b) The interpreter knowingly and willfully makes a false interpretation.

4 (c) The interpreter knowingly and willfully discloses confidential or privileged
5 information that he or she received while serving as an interpreter.

6 (d) The interpreter failed to follow interpreter standards established by the
7 supreme court.

8 (e) The interpreter failed to follow the code of professional responsibility for
9 interpreters.

10 (f) The interpreter is unable to work cooperatively with the person with limited
11 English language proficiency or with that person's counsel or representative.

12 (g) Any other good cause that the court or hearing officer finds serves the
13 interest of justice.

14 (8) The department of health and family services shall maintain a list of
15 qualified interpreters for use with persons who have hearing impairments. The
16 department shall distribute the list, upon request and without cost, to courts and
17 public agencies who must appoint interpreters.

18 (9) In addition to or in lieu of providing an interpreter, a court or hearing officer
19 may, upon request of a person with limited English language proficiency and for good
20 cause, make available to the person, at no cost, an appropriate assistive
21 communication device.

22 (10)(a) ~~The~~ ^{Except as provided in par. (b), the} necessary expenses of providing ^{qualified} interpreters ~~and~~ assistive
23 ~~communicative devices~~ to persons with limited English language proficiency under
24 this section shall be paid as follows:

1. ~~In all legal proceedings before a court~~ ^{court} ~~the director of state courts~~ ^{circuits} ~~under s. 758.19 (8) shall pay the expenses, except that the public defender shall pay~~
 2. ~~those expenses~~ ^{the necessary} ~~for preparing persons represented by the public defender for~~ ^{providing an interpreter to}
 3. ~~legal proceedings~~ ^{of} ~~in a court of record.~~

2. ~~In all legal proceedings before a municipal court~~ ^{the court of appeals}, the municipality shall pay the expenses.

3. ~~In all legal proceedings before a public agency~~ ^{the supreme court}, the public agency shall pay the expenses.

SECTION 12. 905.015 of the statutes is amended to read:

905.015 Interpreters for persons with language difficulties ^{plain} **limited English language proficiency** ^{or hearing or speaking impairments} **or hearing or speaking impairments.** If an interpreter for a person with ^{plain text} ~~a language difficulty~~ **limited English language proficiency**, as defined in s. 885.37 (1) ^a ~~(a)~~, or a hearing or speaking impairment interprets as an aid to a communication which is privileged by statute, rules adopted by the ^{supreme court} ~~supreme court~~, or the U.S. or state constitution, the interpreter may be prevented from disclosing the communication by any person who has a right to claim the privilege. The interpreter may claim the privilege but only on behalf of the person who has the right. The authority of the interpreter to do so is presumed in the absence of evidence to the contrary.

SECTION 9409. Effective dates; circuit courts.

(1) The treatment of sections 20.625 (1) (c), 20.680 (2) ~~(b) and (c)~~ ^{(am) and} 46.295 (2) (c) ~~(b)~~, 758.19 (8), 814.67 (1) (b) 2., ~~(b) and (bm) and (lm)~~ ^{(b) and (bm) and (lm)}, 885.37, and 905.015 of the statutes takes effect on the first day of the 4th month beginning after publication.

(END)

(intro.) and

(1) (a) and (b), (2), (4) (a), and (5) (a)

885.38

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0094/P2ins
RPN:kmg:km

1 insert 2-7:

2 SECTION 1. 20.625 (1) (c) of the statutes is amended to read:

3 20.625 (1) (c) *Court interpreter fees.* The amounts in the schedule to pay
4 interpreter fees reimbursed under s. ~~885.37 (4) (a)~~ ² 758.19 (8).

History: 1971 c. 125; 1975 c. 39, 283; 1977 c. 187 s. 135; 1977 c. 449; Sup. Ct. Order, 88 Wis. 2d xiii (1979); 1979 c. 34; 1983 a. 27; 1987 a. 399; 1989 a. 122; 1991 a. 39; 1993 a. 16, 206; 1995 a. 27; 1997 a. 27; 1999 a. 9.

5 insert 2-21:

6 ~~No P~~ as follows:

7 1. Forty dollars for the first hour and \$20 for each one-half hour thereafter for
8 interpreters certified under the requirements and procedures approved by the
9 supreme court.

10 2. Thirty dollars for the first hour and \$15 for each one-half hour thereafter
11 for qualified interpreters, as defined in s. 885.38 (1). (c)

12 insert 3-24;

13 SECTION 2. 814.67 (1) (am) of the statutes is created to read:

14 814.67 (1) (am) For attending before a circuit court:

15 1. For witnesses, \$16 per day.

16 2. For interpreters, a fee established by the county.

17 SECTION 3. 814.67 (1) (b) (intro.) of the statutes is amended to read:

18 814.67 (1) (b) (intro.) For attending before ~~any other court~~ the court of appeals
19 or the supreme court:

History: 1981 c. 317; 1987 a. 27; 1995 a. 27.

20 SECTION 4. 814.67 (1) (b) 2. of the statutes is amended to read:

21 814.67 (1) (b) 2. For interpreters, ~~\$35 per one-half day~~ a fee established by the
22 court.

History: 1981 c. 317; 1987 a. 27; 1995 a. 27.

1 insert 4-7:

2 **SECTION 5.** 885.37 (1) (a) of the statutes is repealed.

3 **SECTION 6.** 885.37 (1) (b) of the statutes is amended to read:

4 885.37 (1) (b) If a municipal court has notice that a person ~~who fits any of the~~
5 ~~criteria under par. (a)~~ has a language difficulty because of the inability to speak or
6 understand English, has a hearing impairment, is unable to speak or has a speech
7 defect, the court shall make a factual determination of whether the language
8 difficulty or the hearing or speaking impairment is sufficient to prevent the
9 individual from communicating with his or her attorney, reasonably understanding
10 the English testimony or reasonably being understood in English. If the court
11 determines that an interpreter is necessary, the court shall advise the person that
12 he or she has a right to a qualified interpreter and that, if the person cannot afford
13 one, an interpreter will be provided for him or her at the public's expense. Any waiver
14 of the right to an interpreter is effective only if made voluntarily in person, in open
15 court and on the record.

16 History: Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

SECTION 7. 885.37 (2) of the statutes is repealed.

17 **SECTION 8.** 885.37 (4) (a) of the statutes is repealed and recreated to read:

18 885.37 (4) (a) The necessary expense of furnishing an interpreter for an
19 indigent person in a municipal court shall be paid by the municipality.

20 **SECTION 9.** 885.37 (5) (a) of the statutes is amended to read:

21 885.37 (5) (a) If a court under sub. (1) ~~or (2)~~ or an agency under sub. (3) decides
22 to appoint an interpreter, the court or agency shall follow the applicable procedure
23 under par. (b) or (c).

24 History: Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 106, 199; Stats. 1975 s. 885.37; 1985 a. 266; 1987 a. 27; 1995 a. 27 ss. 7207 to 7209, 9126 (19); 1995 a. 77.

1 insert 7-6:

2 *bold* (3) (a) The court shall appoint a qualified interpreter for a person in a court
3 proceeding if the court determines that the person has limited English proficiency
4 and the person is one of the following:

- 5 1. A party in interest.
- 6 2. A witness.
- 7 3. An alleged victim ~~of a crime~~, as defined in s. 950.02 (4) *M g*
- 8 4. A parent or legal guardian of a minor party in interest or the legal guardian
9 of a party in interest.
- 10 5. A parent or legal guardian of a minor victim ~~of a crime~~ or the legal guardian
11 of a victim ~~of a crime~~. *as defined in s. 950.02 (4)*

12 (b) The court may appoint more than one *qualified* interpreter in a court proceeding
13 when necessary.

14 (c) If a person with limited English proficiency is part of a jury panel, the court
15 shall appoint a qualified interpreter for that person.

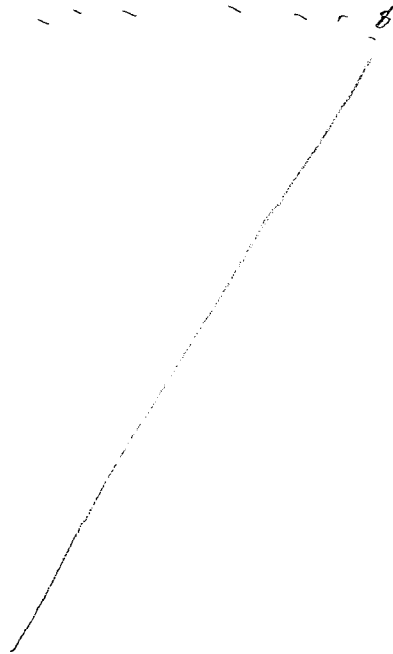
16 *A qualified* (d) ~~any~~ interpreter appointed under this subsection may *✓* provide interpreter
17 services outside the court room in which the court proceedings are being conducted
18 *✓* with the approval of the court

Nelson, Robert P.

From: Marcia.Vandercook@courts.state.wi.us
Sent: Friday, September 29, 2000 12:46 PM
To: Nelson, Robert P.
Cc: David.Suchman@courts.state.wi.us
Subject: Interpreter statute

Bob, I'm glad you added victims to our list of persons specifically covered by the interpreter statute. I was adding a section to my report about what a great change the committee is proposing (you don't need credit, do you?), and so I needed to reread ch. 950. Sec. 950.02(4)(a)2. and 5. define "victim" to include parents of a minor victim and the legal guardian of the minor victim. So do we need a separate section for them, when we've already said we'll cover "victims as defined in ch. 950"? Just a thought. Marcia

*I don't think
we need to, since
"victim" is defined*



Nelson, Robert P.

From: Marcia.Vandercook@courts.state.wi.us
Sent: Friday, September 29, 2000 11:23 AM
To: Nelson, Robert P.
Cc: David.Suchman@courts.state.wi.us
Subject: Interpreter statute

Bob, I got myself all tangled up thinking about the piece of the interpreter statute that I said I would send. The idea is to allow the court to appoint an interpreter for court-ordered exams and mediation, but not for presentence reports, child support reconciliations, or other meetings where an interpreter is already provided by another agency under its own obligation to provide access. Finally, I decided to write it to allow what we wanted, and rely on judicial education to limit appointment for the other things. So here's the best I could do, but I'm not confident that the probation office won't start sending us bills this way:

Sec. 11(3)(c) The court may appoint an interpreter for court-ordered psychiatric exams, medical exams, mediation, and other out-of-court proceedings ordered for the benefit of the court.

If you don't think the examples are appropriate, then go ahead and pare it down some more.

We also have a related problem, which is making sure that when the clerks of court use interpreters at the counter, they can submit for reimbursement. This will usually be a situation where there's already an interpreter in the building (like the staff interpreter in Milwaukee) or where the clerk uses a telephone interpreting service. Sec. 11(1)(L) says "court proceeding" means any proceeding before any court of record, which I don't read as including a counter inquiry. Sec. 11(3)(a) covers an interpreter if the court appoints one, but there's no court appointment for a person who walks up to the counter. Any ideas?

Thanks. Marcia

*see s. 885.32 (3) (d) & (e) and
(7) (a) 1. and s. 258.19
(8) (a)*



D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

delete this field

DON'T GEN. CAT
1 AN ACT **relating to:** providing interpreters for persons with limited ability to
2 speak or understand the English language and making an appropriation.

Analysis by the Legislative Reference Bureau
COURTS AND PROCEDURE

CIRCUIT COURTS

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 20.625 (1) (c) of the statutes is amended to read:

4 20.625 (1) (c) *Court interpreter fees.* The amounts in the schedule to pay
5 interpreter fees reimbursed under s. 885.37 (4) (a) 2. 758.19 (8).

6 SECTION 2. 46.295 (2) (c) of the statutes is amended to read:

7 46.295 (2) (c) Legal services and civil court proceedings, excluding those
8 services covered under s. 885.38 for which reimbursement is provided under s.
9 758.19 (8).

score this period

SECTION 3

1 **SECTION 3.** 758.19 (8) of the statutes is created to read:

2 758.19 (8) (a) From the appropriation under s. 20.625 (1) (c), the director of
3 state courts shall reimburse counties 4 times each year for the actual expenses paid
4 for interpreters required by circuit courts to assist persons with limited English
5 proficiency under s. 885.38. ^{(a)(a) (a)} The amount of the maximum hourly reimbursement for
6 interpreters shall be as follows:

7 1. Forty dollars for the first hour and \$20 for each one-half hour thereafter for
8 interpreters certified under the requirements and procedures approved by the
9 supreme court.

10 2. Thirty dollars for the first hour and \$15 for each one-half hour thereafter
11 for qualified interpreters, as defined in s. 885.38 (1) (c).

12 (b) To receive reimbursement under par. (a), a county must submit, on forms
13 provided by the director of state courts, an accounting of the amount paid for
14 expenses related to interpreters that are eligible for reimbursement under par. (a).
15 The forms must include expenses for a 3-month period and must be submitted within
16 90 days after the 3-month period has ended. The director of state courts may not
17 reimburse a county for any expenses related to interpreters that are submitted after
18 the 90-day period has ended. If moneys are insufficient to pay the full
19 reimbursement to the counties, the director of state courts may prorate the payments
20 or may request that the joint committee on finance take action under s. 13.101.
21 Reimbursement under par. (a) first applies to interpreters expenses incurred on the
22 first day of the 4th month beginning after the effective date of this paragraph
23 [revisor inserts date].

24 (c) The director of state courts shall annually adjust the maximum
25 reimbursement to counties for fees paid for interpreters under par. (a) to reflect the

1 changes in the consumer price index for all urban consumers, U.S. city average, as
2 determined by the U.S. department of labor, with the adjusted limit to apply to
3 interpreter services provided subsequent to the adjustments.

4 **SECTION 4.** 814.67 (1) (am) of the statutes is created to read:

5 814.67 (1) (am) For attending before a circuit court:

- 6 1. For witnesses, \$16 per day.
- 7 2. For interpreters, a fee established by the county.

8 **SECTION 5.** 814.67 (1) (b) (intro.) of the statutes is amended to read:

9 814.67 (1) (b) (intro.) For attending before ~~any other court~~ the court of appeals
10 or the supreme court:

11 **SECTION 6.** 814.67 (1) (b) 2. of the statutes is amended to read:

12 814.67 (1) (b) 2. For interpreters, ~~\$35 per one-half day~~ a fee established by the
13 court.

14 **SECTION 7.** 885.37 (1) (a) of the statutes is repealed.

15 **SECTION 8.** 885.37 (1) (b) of the statutes is amended to read:

16 885.37 (1) (b) If a municipal court has notice that a person ~~who fits any of the~~
17 ~~criteria under par. (a)~~ has a language difficulty because of the inability to speak or
18 understand English, has a hearing impairment, is unable to speak or has a speech
19 defect, the court shall make a factual determination of whether the language
20 difficulty or the hearing or speaking impairment is sufficient to prevent the
21 individual from communicating with his or her attorney, reasonably understanding
22 the English testimony or reasonably being understood in English. If the court
23 determines that an interpreter is necessary, the court shall advise the person that
24 he or she has a right to a qualified interpreter and that, if the person cannot afford
25 one, an interpreter will be provided for him or her at the public's expense. Any waiver

1 of the right to an interpreter is effective only if made voluntarily in person, in open
2 court and on the record.

3 **SECTION 9.** 885.37 (2) of the statutes is repealed.

4 **SECTION 10.** 885.37 (4) (a) of the statutes is repealed and recreated to read:

5 885.37 (4) (a) The necessary expense of furnishing an interpreter for an
6 indigent person in a municipal court shall be paid by the municipality.

7 **SECTION 11.** 885.37 (5) (a) of the statutes is amended to read:

8 885.37 (5) (a) If a court under sub. (1) ~~or (2)~~ or an agency under sub. (3) decides
9 to appoint an interpreter, the court or agency shall follow the applicable procedure
10 under par. (b) or (c).

11 **SECTION 12.** 885.38 of the statutes is created to read:

12 **885.38 Interpreters for persons with limited English language**
13 **proficiency.** (1) In this section:

14 (a) "Court proceeding" means any proceeding before a court of record.

15 (b) "Limited English proficiency" means any of the following:

16 1. The inability, because of the use of a language other than English, to
17 adequately understand or communicate effectively in English in a court proceeding.

18 2. The inability, due to a speech impairment, hearing loss, deafness,
19 deaf-blindness, or other disability, to adequately hear, understand, or communicate
20 effectively in English in a court proceeding.

21 (c) "Qualified interpreter" means a person whom the court has found is readily
22 able to interpret simultaneously and consecutively and to sight translate from
23 English into the language of an individual with limited English proficiency and from
24 the language of that individual into English in a court proceeding.

1 (2) The supreme court shall establish the procedures and policies for the
2 recruitment, training, and certification of persons to act as qualified interpreters in
3 a court proceeding and for the coordination, discipline, retention, and training of
4 those interpreters.

5 (3) (a) The court shall appoint a qualified interpreter for a person in a court
6 proceeding if the court determines that the person has limited English proficiency
7 and the person is one of the following:

- 8 1. A party in interest.
- 9 2. A witness.
- 10 3. An alleged victim, as defined in s. 950.02 (4).
- 11 4. A parent or legal guardian of a minor party in interest or the legal guardian
12 of a party in interest.
- 13 5. A parent or legal guardian of a minor victim, as defined in s. 950.02 (4), or
14 the legal guardian of a victim, as defined in s. 950.02 (4).

15 (b) The court may appoint more than one qualified interpreter in a court
16 proceeding when necessary.

17 (c) If a person with limited English proficiency is part of a jury panel, ^{in a court proceeding} the court
18 shall appoint a qualified interpreter for that person.

19 (1) A qualified interpreter appointed under this subsection may, with the
20 approval of the court, provide interpreter services outside the court room ~~in which~~
that are related to the court proceedings ~~are being conducted~~ ^{including during court-ordered}
~~psychiatric or medical exams or mediation~~

21 (2) A qualified interpreter shall be appointed under this subsection without
22 ~~regard to the ability of the person with limited English proficiency to pay for the costs~~
^{or provided}
23 regard to the ability of the person with limited English proficiency to pay for the costs
24 of the qualified interpreter.

Insert 5-18

17
18
19
20
21
22

with the

SECTION 12

1 (4) (a) A person with limited English proficiency may waive the right to a
2 qualified interpreter at any point in a ^{court} legal proceeding if all of the following
3 conditions are met:

4 1. The court ~~or hearing officer~~ explains to the person with limited English
5 proficiency on the record and through a qualified interpreter the nature and effect
6 of the waiver.

7 2. The court ~~or hearing officer~~ determines on the record that the waiver has
8 been made knowingly, intelligently, and voluntarily.

9 3. The person with limited English proficiency has been given an opportunity
10 to consult with an attorney regarding the waiver of the right to a qualified
11 interpreter.

12 4. The court ~~or hearing officer~~ approves the waiver.

13 (b) At any point in the ^{court} legal proceeding ~~or municipal court proceeding~~ for good
14 cause, the person with limited English proficiency may retract his or her waiver and
15 request that a qualified interpreter be appointed.

16 (5) Every qualified interpreter, before commencing his or her duties in a court
17 proceeding, shall take a sworn oath that he or she will make a true and impartial
18 interpretation. The supreme court may approve a uniform oath for qualified
19 interpreters.

20 (6) Any party to a court proceeding may object to the use of any qualified
21 interpreter for good cause. The court may remove a qualified interpreter for good
22 cause.

23 (7) (a) Except as provided in par. (b), the necessary expenses of providing
24 qualified interpreters to persons with limited English proficiency under this section
25 shall be paid as follows:

interpreter under sub. (3) (d)

and when the clerk of circuit court uses a qualified

1 1. In all court proceedings before a circuit court, the county shall pay the
2 expenses.

3 2. In all court proceedings before the court of appeals, the court of appeals shall
4 pay the expenses.

5 3. In all court proceedings before the supreme court, the supreme court shall
6 pay the expenses.

7 (b) The public defender shall pay the necessary expenses of providing an
8 interpreter to persons represented by the public defender.

9 SECTION 13. 905.015 of the statutes is amended to read:

10 **905.015 Interpreters for persons with language difficulties, limited**
11 **English proficiency, or hearing or speaking impairments.** If an interpreter
12 for a person with a language difficulty, limited English proficiency, as defined in s.
13 885.38 (1) (b), or a hearing or speaking impairment interprets as an aid to a
14 communication which is privileged by statute, rules adopted by the supreme court,
15 or the U.S. or state constitution, the interpreter may be prevented from disclosing
16 the communication by any person who has a right to claim the privilege. The
17 interpreter may claim the privilege but only on behalf of the person who has the
18 right. The authority of the interpreter to do so is presumed in the absence of evidence
19 to the contrary.

20 SECTION 9409. Effective dates; circuit courts.

21 (1) The treatment of sections 20.625 (1) (c), 46.295 (2) (c), 758.19 (8), 814.67 (1)
22 (am) and (b) (intro.) and 2., 885.37 (1) (a) and (b), (2), (4) (a), and (5) (a), 885.38, and
23 905.015 of the statutes takes effect on the first day of the 7th month beginning after
24 publication.

25 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0094/P2ins
RPN:kmg:km:kjf

1
2
3
4
5
6

insert 5-18: ✓

(d) If a person with limited English proficiency requests ^{the} assistance of the clerk
of circuit courts regarding a legal proceeding, the clerk may obtain the assistance of
a qualified interpreter to respond to the person's inquiry if the chief judge of the
judicial administrative district has developed written policies allowing the clerk to
obtain the assistance of a qualified interpreter.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0094/Pfdn
RPN:kmg:kj:kjf

3

I made some changes in s. 885.38 (3) ~~and~~ (see pars. (d), ~~and~~ (e)) and (7) (a) ~~to~~ to respond to your concern about interpreters at clerk of circuit court counters. Does this work?
Please review this draft carefully to ensure that it is consistent with your intent.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0094/P3dn
RPN:kmg:kjf

October 4, 2000

I made some changes in s. 885.38 (3) (see pars. (d), (e), and (f) and in s. 885.38 (7) (a)
1. to respond to your concern about interpreters at clerk of circuit court counters. Does
this work?

Please review this draft carefully to ensure that it is consistent with your intent.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us



#3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

From Dir. of
St. Courts 10/19

1 AN ACT ...; relating to: providing ^{Court} interpreters for persons with limited ability to
2 speak or understand the English language and making an appropriation.

Analysis by the Legislative Reference Bureau
COURTS AND PROCEDURE

CIRCUIT COURTS

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 20.625 (1) (c) of the statutes is amended to read:
4 20.625 (1) (c) *Court interpreter fees*. The amounts in the schedule to pay
5 interpreter fees reimbursed under s. 885.37 (4) (a) 2. 758.19 (8).
6 SECTION 2. 46.295 (2) (c) of the statutes is amended to read:
7 46.295 (2) (c) Legal services and civil court proceedings, excluding those
8 services covered under s. 885.38 for which reimbursement is provided under s.
9 758.19 (8).

1 SECTION 3. 758.19 (8) of the statutes is created to read:

2 758.19 (8) (a) From the appropriation under s. 20.625 (1) (c), the director of
3 state courts shall reimburse counties 4 times each year for the actual expenses paid
4 for interpreters required by circuit courts to assist persons with limited English
5 proficiency under s. 885.38 (7) (a) 1. The amount of the maximum hourly
6 reimbursement for interpreters shall be as follows:

7 1. Forty dollars for the first hour and \$20 for each one-half hour thereafter for
8 interpreters certified under the requirements and procedures approved by the
9 supreme court.

10 2. Thirty dollars for the first hour and \$15 for each one-half hour thereafter
11 for qualified interpreters, as defined in s. 885.38 (1) (c).

12 (b) To receive reimbursement under par. (a), a county must submit, on forms
13 provided by the director of state courts, an accounting of the amount paid for
14 expenses related to interpreters that are eligible for reimbursement under par. (a).

15 The forms must include expenses for ^{the past} a 3-month period and must be submitted within
16 90 days after the 3-month period has ended. The director of state courts may not
17 reimburse a county for any expenses related to interpreters that are submitted after

18 the 90-day period has ended. If moneys are insufficient to pay the full
19 reimbursement to the counties, the director of state courts may prorate the payments
20 or may request that the joint committee on finance take action under s. 13.101.

21 ~~Reimbursement under par. (a) first applies to interpreters expenses incurred on the~~
22 ~~first day of the 4th month beginning after the effective date of this paragraph.~~

23 ~~[revisor inserts date].~~

24 (c) The director of state courts shall annually adjust the maximum
25 reimbursement to counties for fees paid for interpreters under par. (a) to reflect the

*invoice date
rather than date
of service?*

*can still
hold
over?*

5

1 changes in the consumer price index for all urban consumers, U.S. city average, as
2 determined by the U.S. department of labor, with the adjusted limit to apply to
3 interpreter services provided subsequent to the adjustments.

4 **SECTION 4.** 814.67 (1) (am) of the statutes is created to read:

5 814.67 (1) (am) For attending before a circuit court:

6 1. For witnesses, \$16 per day.

7 2. For interpreters, a fee ~~established by the county.~~ *to be negotiated by the county on a*
case by case basis.

8 **SECTION 5.** 814.67 (1) (b) (intro.) of the statutes is amended to read:

9 814.67 (1) (b) (intro.) For attending before ~~any other court~~ the court of appeals
10 or the supreme court:

11 **SECTION 6.** 814.67 (1) (b) 2. of the statutes is amended to read:

12 814.67 (1) (b) 2. For interpreters, ~~\$35 per one-half day~~ a fee established by the
13 ~~court~~ *on a case-by-case basis.* *to be negotiated*

14 **SECTION 7.** 885.37 (1) (a) of the statutes is repealed.

15 **SECTION 8.** 885.37 (1) (b) of the statutes is amended to read:

16 885.37 (1) (b) If a municipal court has notice that a person ~~who fits any of the~~
17 ~~criteria under par. (a)~~ has a language difficulty because of the inability to speak or
18 understand English, has a hearing impairment, is unable to speak or has a speech
19 defect, the court shall make a factual determination of whether the language
20 difficulty or the hearing or speaking impairment is sufficient to prevent the
21 individual from communicating with his or her attorney, reasonably understanding
22 the English testimony or reasonably being understood in English. If the court
23 determines that an interpreter is necessary, the court shall advise the person that
24 he or she has a right to a qualified interpreter and that, if the person cannot afford
25 one, an interpreter will be provided for him or her at the public's expense. Any waiver

1 of the right to an interpreter is effective only if made voluntarily in person, in open
2 court and on the record.

3 SECTION 9. 885.37 (2) of the statutes is repealed.

4 SECTION 10. 885.37 (4) (a) of the statutes is repealed and recreated to read:

5 885.37 (4) (a) The necessary expense of furnishing an interpreter for an
6 indigent person in a municipal court shall be paid by the municipality.

7 SECTION 11. 885.37 (5) (a) of the statutes is amended to read:

8 885.37 (5) (a) If a court under sub. (1) ~~or (2)~~ or an agency under sub. (3) decides
9 to appoint an interpreter, the court or agency shall follow the applicable procedure
10 under par. (b) or (c).

11 SECTION 12. 885.38 of the statutes is created to read:

12 885.38 Interpreters for persons with limited English language
13 proficiency. (1) In this section:

14 (a) "Court proceeding" means any proceeding before a court of record.

*will this include the
counser?*

15 (b) "Limited English proficiency" means any of the following:

16 1. The inability, because of the use of a language other than English, to
17 adequately understand or communicate effectively in English in a court proceeding.

18 2. The inability, due to a speech impairment, hearing loss, deafness,
19 deaf-blindness, or other disability, to adequately hear, understand, or communicate
20 effectively in English in a court proceeding.

21 (c) "Qualified interpreter" means a person whom the court has found is *readily and*
22 *accurately* able to interpret *[simultaneously and consecutively and to sight translate]* from
23 English into the language of an individual with limited English proficiency and from
24 the language of that individual into English in a court proceeding.

and accurately
Mr. - readily able to communicate with the LEP persons, interpret the proceedings for the person, and repeat the statements of the person to the court

1 (2) The supreme court shall establish the procedures and policies for the
2 recruitment, training, and certification of persons to act as qualified interpreters in
3 a court proceeding and for the coordination, discipline, retention, and training of
4 those interpreters.

5 (3) (a) The court shall appoint a qualified interpreter for a person in a court
6 proceeding if the court determines that the person has limited English proficiency
7 and the person is one of the following:

- 8 1. A party in interest.
- 9 2. A witness.
- 10 3. An alleged victim, as defined in s. 950.02 (4).
- 11 4. A parent or legal guardian of a minor party in interest or the legal guardian
12 of a party in interest.

13 5. A parent or legal guardian of a minor victim, as defined in s. 950.02 (4), or
14 the legal guardian of a victim, as defined in s. 950.02 (4). *necessary?*

15 (b) The court may appoint more than one qualified interpreter in a court
16 proceeding when necessary.

17 (c) If a person with limited English proficiency ^{as defined in sub⁽¹⁾(b)(2)} is part of a jury panel in a court
18 proceeding, the court shall appoint a qualified interpreter for that person.

19 (d) If a person with limited English proficiency requests the assistance of the
20 clerk of circuit courts regarding a legal proceeding, the clerk may provide the
21 assistance of a qualified interpreter to respond to the person's inquiry ~~if the chief~~
22 ~~judge of the judicial-administrative district has developed written policies allowing~~
23 ~~the clerk to provide the assistance of a qualified interpreter.~~

24 (e) A qualified interpreter appointed under this subsection may, with the
25 approval of the court, provide interpreter services outside the court room that are

1 related to the court proceedings, including during court-ordered psychiatric or
2 medical exams or mediation.

3 (f) A qualified interpreter shall be appointed or provided under this subsection
4 without regard to the ability of the person with limited English proficiency to pay for
5 the costs of the qualified interpreter.

6 (4) (a) A person with limited English proficiency may waive the right to a
7 qualified interpreter at any point in a court proceeding if all of the following
8 conditions are met:

— WAIVER —

9 1. The court explains to the person with limited English proficiency on the
10 record and through a qualified interpreter the nature and effect of the waiver. *need intupre
to waive
interpreter.*

11 2. The court determines on the record that the waiver has been made
12 knowingly, intelligently, and voluntarily.

13 3. The person with limited English proficiency has been given an opportunity
14 to consult with an attorney regarding the waiver of the right to a qualified
15 interpreter. *need attorney to waive intupre?*

16 4. The court approves the waiver.

17 (b) At any point in the court proceeding, for good cause, the person with limited
18 English proficiency may retract his or her waiver and request that a qualified
19 interpreter be appointed. *can time limits then be waived
for good cause?*

20 (5) Every qualified interpreter, before commencing his or her duties in a court
21 proceeding, shall take a sworn oath that he or she will make a true and impartial
22 interpretation. The supreme court may approve a uniform oath for qualified
23 interpreters.

*current language of § 885.37(1)(b): Any waiver of the right to an interp.
is effective only if made voluntarily in person, in open court
and on the record.*

1 (6) Any party to a court proceeding may object to the use of any ~~qualified~~
2 interpreter for good cause. The court may remove a ~~qualified~~ interpreter for good
3 cause. *Waive time limits?*

4 (7) (a) Except as provided in par. (b), the necessary expenses of providing
5 qualified interpreters to persons with limited English proficiency under this section
6 shall be paid as follows:

7 1. In all ^{circuit} court proceedings ~~before a circuit court and when the clerk of circuit~~
8 ~~court uses a qualified interpreter under~~ sub. (3) (d), ^{under (b)(c) and (e)} the county shall pay the
9 expenses, *and shall be reimbursed pursuant to § 758.19(8).*

10 2. In all court proceedings before the court of appeals, the court of appeals shall
11 pay the expenses.

12 3. In all court proceedings before the supreme court, the supreme court shall
13 pay the expenses.

14 (b) The public defender shall pay the necessary ^{out-of-court} expenses of providing an
15 interpreter to persons represented by the public defender. Tai
Le

16 SECTION 13. 905.015 of the statutes is amended to read:

17 **905.015 Interpreters for persons with language difficulties, limited**
18 **English proficiency, or hearing or speaking impairments.** If an interpreter
19 for a person with a language difficulty, limited English proficiency, as defined in s.
20 885.38 (1) (b), or a hearing or speaking impairment interprets as an aid to a
21 communication which is privileged by statute, rules adopted by the supreme court,
22 or the U.S. or state constitution, the interpreter may be prevented from disclosing
23 the communication by any person who has a right to claim the privilege. The
24 interpreter may claim the privilege but only on behalf of the person who has the

1 right. The authority of the interpreter to do so is presumed in the absence of evidence
2 to the contrary.

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3 **SECTION 9409. Effective dates; circuit courts.**

4 (1) The treatment of sections 20.625 (1) (c), 46.295 (2) (c), 758.19 (8), 814.67 (1)
5 (am) and (b) (intro.) and 2., 885.37 (1) (a) and (b), (2), (4) (a), and (5) (a), 885.38, and
6 905.015 of the statutes takes effect on the first day of the 7th month beginning after
7 publication.

8 (END)