

# Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act

## §63-2407. Short title.

Sections 2407 through 2415 of this title shall be known and may be cited as the "Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act".

Added by Laws 1982, c. 290, § 1. Amended by Laws 2005, c. 395, § 1, eff. Nov. 1, 2005.

## §63-2408. Definitions.

As used in the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act:

1. "Deaf person" or "hard-of-hearing person" means an individual whose sense of hearing is nonfunctional for the ordinary purposes of life, and also may include a person who is deaf-blind, meaning a deaf or hard-of-hearing person whose vision is also nonfunctional for the ordinary purposes of life;

2. "Qualified legal interpreter" means:

a. an individual certified by the State Board of Examiners of Certified Courtroom Interpreters, or

b. (1) an individual who possesses the knowledge and skills necessary to accurately and impartially interpret spoken English into the equivalent visual languages and modes, and currently certified by the National Registry of Interpreters for the Deaf as one of the following:

(a) Specialist Certificate: Legal (SC:L). In the event none are available, then

(b) Certificate of Interpretation and Certificate of Transliteration (CI & CT), Comprehensive Skills Certificate (CSC), or National Association of the Deaf Certificate Level 5 (NAD5),

(2) an individual who possesses the knowledge and skills necessary to accurately and impartially transliterate for a person who is oral or nonsigning using the equivalent oral or captioned mode, and is currently certified by the National Registry of Interpreters for the Deaf as one of the following:

(a) Specialist Certificate: Oral Transliteration Certificate (OTC). In the event none are available, then

(b) Specialist Certificate: Legal (SC:L). In the event none are available, then

(c) Certificate of Interpretation and Certificate of Transliteration (CI & CT), Comprehensive Skills Certificate (CSC), or National Association of the Deaf Certificate Level 5 (NAD5). In the event none are available, then a recognized national or state certifying body of captionists, or

- (3) an individual who:
  - (a) is deaf or hard-of-hearing who possesses the knowledge, skills, specialized training and experience to enhance communication with persons who are deaf or hard-of-hearing and whose communication modes are so unique that they cannot be adequately assessed by interpreters who are hearing, and
  - (b) holds the following qualifications as a deaf interpreter: National Registry of Interpreters for the Deaf, Certified Deaf Interpreter (CDI); in the event none are available, then an Oklahoma QAST Deaf Evaluator may be utilized; and

3. "Appointing authority" means any court, department, board, commission, agency, licensing authority, political subdivision or municipality of the state.

Added by Laws 1982, c. 290, § 2. Amended by Laws 2005, c. 395, § 2, eff. Nov. 1, 2005.

### **§63-2409. Appointment of interpreter in court action or grand jury proceeding.**

A. In any case before any state or local court or grand jury, wherein a person who is deaf or hard-of-hearing is a litigant, defendant, spectator as required by subtitle A of Title II of the Americans with Disabilities Act, Pub. L. 101-336, witness, party, prospective juror, or juror, the court shall, upon request, appoint a qualified legal interpreter to interpret the proceedings to the deaf or hard-of-hearing person and interpret testimony or statements and to assist in preparation with counsel. The court shall also appoint a qualified legal interpreter, upon request, for any party proceeding in forma pauperis in an action before the court. The individual who is deaf or hard-of-hearing shall determine which type of qualified legal interpreter best fits the needs of the individual.

B. Efforts to obtain the services of a qualified legal interpreter with the highest available level of certification, skill and specialized training in the area of legal interpretation for the deaf or hard-of-hearing will be made prior to accepting services of an interpreter with lesser certification and skill. Once a qualified legal interpreter is appointed, the interpreter shall be afforded the time necessary to make a language assessment in order to ensure effective communication, and to assess whether a deaf interpreter may also be necessary. Based on the language assessment, the interpreter will make recommendations to the court.

C. The provisions of this section shall be construed in conjunction with Sections 1 through 10 of Senate Bill No. 779 of the 1st Session of the 50th Oklahoma Legislature, if that bill is enacted.

Added by Laws 1982, c. 290, § 3. Amended by Laws 1989, c. 194, § 1, eff. Nov. 1, 1989; Laws 1995, c. 73, § 2, emerg. Eff. April 12, 1995; Laws 2005, c. 395, § 3, eff. Nov. 1, 2005.

**§63-2410. Arrests - Appointment of interpreter.**

A. In the event a person who is deaf or hard-of-hearing is arrested and taken into custody for any alleged violation of a criminal law of this state or for civil contempt, a qualified legal interpreter shall be obtained through any interpreter service agency providing qualified legal interpreting services for the deaf and hard-of-hearing or with individuals who meet the qualifications for a qualified legal interpreter in order to communicate to the person that person's legal rights and to interview and interrogate properly. No statement taken from such deaf or hard-of-hearing person before a qualified legal interpreter is present shall be admissible in court. The individual who is deaf or hard-of-hearing shall determine which type of qualified legal interpreter best fits the needs of the individual.

B. The provisions of this section shall be construed in conjunction with Sections 1 through 10 of Senate Bill No. 779 of the 1st Session of the 50th Oklahoma Legislature, if that bill is enacted.

Added by Laws 1982, c. 290, § 4. Amended by Laws 2005, c. 395, § 4, eff. Nov. 1, 2005.

**§63-2411. Administrative proceedings - Appointment of interpreter.**

In any proceeding before any department, board, commission, agency or licensing authority of the state, in any political subdivision or municipality, wherein any deaf or hard-of-hearing person is a defendant, applicant, spectator as required by subtitle A of Title II of the Americans with Disabilities Act, Pub. L. 101-336, complainant, principal witness or party, such department, board, commission, agency, licensing authority, political subdivision or municipality shall appoint a qualified legal interpreter upon request of the deaf or hard-of-hearing individual. The individual who is deaf or hard-of-hearing shall determine which type of qualified legal interpreter best fits the needs of the individual. It shall be the duty of the appointing authority to inform the deaf or hard-of-hearing person of the rights of that person to the services of an interpreter.

Added by Laws 1982, c. 290, § 5. Amended by Laws 1989, c. 194, § 2, eff. Nov. 1, 1989; Laws 2005, c. 395, § 5, eff. Nov. 1, 2005.

**§63-2412. Notice of necessity of interpreter - Proof of hearing loss.**

Every deaf or hard-of-hearing person whose appearance in any proceeding entitles that person to a qualified legal interpreter shall make a good faith effort to notify the appointing authority of the desire of the person for an interpreter. An appointing authority may require a person requesting the appointment of an interpreter to furnish reasonable proof of hearing loss when the appointing authority has reason to believe that the person does not have a hearing loss.

Added by Laws 1982, c. 290, § 6. Amended by Laws 2005, c. 395, § 6, eff. Nov. 1, 2005.

**§63-2413. Request for interpreter.**

It shall be the responsibility of the appointing authority to request interpreter services through any interpreter service agency providing qualified legal interpreting services for the deaf and hard-of-hearing or with individuals who meet the qualifications for a qualified legal interpreter.

Added by Laws 1982, c. 290, § 7. Amended by Laws 1986, c. 7, § 3, eff. July 1, 1986; Laws 1995, c. 73, § 3, emerg. eff. April 12, 1995; Laws 2005, c. 395, § 7, eff. Nov. 1, 2005.

**§63-2414. Oath or affirmation of true interpretation.**

Before a qualified legal interpreter may participate in any proceedings under the provisions of the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act, such interpreter shall make an oath or affirmation that the interpreter will make a true interpretation in the manner most readily understood by the person who is deaf or hard-of-hearing.

Added by Laws 1982, c. 290, § 8. Amended by Laws 2005, c. 395, § 8, eff. Nov. 1, 2005.

**§63-2415. Interpreter's fees – Recess periods.**

A. A qualified legal interpreter appointed under the provisions of the Oklahoma Legal Interpreter for the Deaf and Hard-of-Hearing Act shall be entitled to the prevailing rate for qualified legal interpreters in this state; provided, any interpreter who is appointed pursuant to Section 2409 or 2410 of this title shall be paid in accordance with the fee schedule established pursuant to Section 7 of Senate Bill No. 779 of the 1st Session of the 50th Oklahoma Legislature, if that bill is enacted. Prior to the establishment of a fee schedule or if Senate Bill No. 779 of the 1st Session of the 50th Oklahoma Legislature is not enacted, payment shall be the prevailing rate for qualified legal interpreters in this state. When the interpreter is appointed by a court, the fee shall be paid out of the local court fund as provided for in Section 1304 of Title 20 of the Oklahoma Statutes and when the interpreter is otherwise appointed, the fee shall be paid by the appointing authority. The person for whom the interpreter is appointed shall not be assessed a reimbursement fee.

B. The appointing authority shall provide recess periods as necessary for the qualified legal interpreter as determined by the interpreter.

Added by Laws 1982, c. 290, § 9. Amended by Laws 1989, c. 194, § 3, eff. Nov. 1, 1989; Laws 1995, c. 73, § 4, emerg. eff. April 12, 1995; Laws 1999, c. 11, § 1, emerg. eff. April 5, 1999; Laws 2005, c. 395, § 9, eff. Nov. 1, 2005.

**§12-2503.1. Interpreter for the Deaf or Hard-of-Hearing Privilege.**

A. As used in this section:

1. An "interpreter" is a qualified legal interpreter for the deaf or hard-of-hearing, as defined by Section 2408 of Title 63 of the Oklahoma Statutes;

2. A "deaf or hard-of-hearing person" is a person whose sense of hearing is nonfunctional for the ordinary purposes of life; and

3. A communication is "confidential" if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

B. A person has a privilege to refuse to disclose and to prevent an interpreter from disclosing such person's confidential communication made while such interpreter is acting in the capacity as an interpreter for persons who are deaf or hard-of-hearing.

C. The privilege may be claimed by the interpreter, by the deaf or hard-of-hearing person, by the guardian or conservator of the deaf or hard-of-hearing person, or by the personal representative of the deaf or hard-of-hearing person if the deaf or hard-of-hearing person is deceased.

D. An interpreter who is employed to interpret, transliterate or relay a conversation between a person who can hear and a deaf or hard-of-hearing person is a conduit for the conversation and may not disclose or be compelled to disclose, through reporting or testimony or by subpoena, the contents of a confidential communication.

E. There is no privilege pursuant to this section for communications:

1. If the services of the interpreter were sought or obtained to enable or aid anyone to commit or plan to commit what the deaf or hard-of-hearing person knew, or reasonably should have known, to be a crime or fraud or physical injury to the deaf or hard-of-hearing person or another individual;

2. In which the deaf or hard-of-hearing person has expressed an intent to engage in conduct likely to result in imminent death or serious bodily injury to the deaf or hard-of-hearing person or another individual;

3. Relevant to an issue in a proceeding challenging the competency of the interpreter;

4. Relevant to a breach of duty by the interpreter; or

5. That are subject to a duty to disclose under statutory law.

Added by Laws 1993, c. 297, § 1, emerg. eff. June 7, 1993. Amended by Laws 2002, c. 468, § 37, eff. Nov. 1, 2002. Renumbered from § 2506.1 of this title by Laws 2002, c. 468, § 78, eff. Nov. 1, 2002. Amended by Laws 2005, c. 395, § 10, eff. Nov. 1, 2005.