

STATE OF SOUTH DAKOTA
THIRD JUDICIAL CIRCUIT COURT

314 Sixth Avenue, Brookings, South Dakota 57006

DAVID R. GIENAPP

Presiding Judge
(605) 688-5705

PATRICIA GARCIA DUGGAN

Administrator
(605) 688-4621

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Counties

*Beadle, Brookings, Clark
Codington, Deuel, Grant
Hamlin, Hand, Jerauld
Kingsbury, Lake, Miner
Moody and Sanborn*

www.sdjudicial.com/thirdcircuit

THIRD CIRCUIT POLICY 07-02-P

Use of Interpreters in Court Proceedings

1. Pursuant to South Dakota law, the court has the authority and the obligation to appoint interpreters for court proceedings. Therefore, all court interpreter needs in criminal, including grand jury proceedings, shall be coordinated through the clerk of court or Circuit Court Administration office.
2. As the Unified Judicial System of South Dakota has no certification program in place, the Circuit Court Administrator will screen all applications of persons interested in interpreting for hearings in the 3rd Circuit. The Administrator will review the credentials of persons interested in having their name placed on a roster and being available to serve. Once an interpreter has been screened, the Administrator will make a recommendation to the Presiding Judge to have an interpreter's name placed on a resource list that will be available to each clerk's office in the circuit. Being screened and placed on the list will not obviate the trial judge's determination of the need for the interpreter or the appropriateness of any interpreter to work on any given case.
3. All persons approved for the list will be required to subscribe to a code of ethics approved in the 3rd Circuit (attached hereto), and to sign a written oath (attached hereto) that can be filed with the clerk of court. Anyone who has not filed a written oath with the clerk's office will need to take an oath in court for every proceeding.
4. As a general practice, whenever possible, "screened" or experienced, disinterested interpreters will be used rather than family members or friends, social workers, victim advocates, law enforcement officers, or others with apparent conflicts of interest. Judges may elect to use established interpreter services reasonably available by telephone conference (such as Language Line) for short proceedings, such as pretrial hearings, initial appearances, arraignments, or motion hearings. Circuit staff may use the same telephonic interpretation services for customer assistance or probation services.
5. Advance notice of the need for an interpreter or other accommodation (such as hearing impaired) is necessary to allow sufficient time for these services to be arranged. Signs in the courthouse at the clerk's office and on the circuit website will bring attention to this need. A

request for interpreter services will not eliminate the judge's right to determine if the need has been established and is legitimate.

a. In **criminal** matters, law enforcement should notify the State's Attorney when there is a perceived need or a clear request for an interpreter. The State's Attorney's office shall notify the clerk of court of the need. The clerk will arrange for an interpreter.

b. In **civil** matters, attorneys should notify the clerk of court's office in writing of the need for an interpreter, and the clerk will make the arrangements.

When notifying the clerk that an interpreter is needed, the attorney/party requesting shall inform the clerk of the specific language or dialect needed, and the dates and times needed. Three days' notice is desired so that the clerk has time to find an interpreter and that the interpreter may have an opportunity to review the case file and prepare for the hearing, but must be made at least no later than one day prior to a hearing, or the hearing may be delayed or rescheduled.

6. Payment of interpreter expenses will be handled as follows:

a. In **criminal** matters, the interpreter will submit an invoice or statement to the clerk's office. The judge must determine the cost as reasonable and just, and approve a voucher. The voucher will be submitted to the county auditor for payment. Telephonic interpretation services will be billed to the Circuit Administrator's office, and then costs will be billed back to the county responsible for payment.

b. In **civil** matters, the cost is paid by the party requesting the interpreter, subject to taxation to the losing party.

c. In matters where the interpreter is needed for a **post-conviction** interview with **Court Services**, the UJS/3rd Circuit will be responsible for the payment.

c. Interpreters will be required to submit a signed W-9 to the local county where services are rendered, or to the State of South Dakota if the UJS/3rd Circuit is paying the bill.

7. Transcripts. The only transcript of interpreted proceedings will be the official transcript prepared by a court reporter, in English, containing only English translations.

Dated this 1st day of June 2007.

David R. Gienapp
Presiding Judge
Third Judicial Circuit

Adopted 6/07