

Southern Hospitality 2.0

Making Your Court Welcome and Accessible to All Parties

Texas Justice Court Training Center
20-Hour Conference

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The Texas Access To Justice Commission:

- Established by the Supreme Court of Texas in 2001
- Reports to Supreme Court of Texas & State Bar of Texas
- Mission: "To develop and implement policy initiatives designed to expand access to and enhance the quality of justice in civil legal matters for low-income Texas residents."

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The Commission's Work:

- Identify and assess civil access to justice needs for low-income Texans
- Promote wise and efficient use of available resources and encourage the coordination or sharing of resources or funding
- Increase resources and funding for access to justice in civil matters
- Promote policies, procedures, court rules, and legislation that reduce barriers to the judicial system
- Develop and implement other initiatives designed to expand civil access to justice
- Monitor the effectiveness of statewide systems and services

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The Legal Access Department:

Offers support, training, publications, resources, and more to legal services programs & pro bono volunteers.

The Legal Access Department's Work:

- Annual Pro Bono Coordinators Retreat & Poverty Law Conference
- Legal Aid Task Forces and Legal Services to the Poor Committees
- Pro Bono Mentorship Program
- NOVA Program
- Pro Bono Excellence & Indigent Defense Awards
- Pro Bono College

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Objectives

1. Participants will learn about the guiding law, best practices for, and resources available to them related to remote access to courts
2. Participants will learn about the guiding law, best practices for, and resources available to them related to language access to courts
3. Participants will receive a list of action items to implement to improve access to their courts and will have the opportunity to ask questions

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Not This:

- Go home, Train Wreck!
- Busy AF. Go Away!
- Come on in . . . depending on who you know.

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Remote Access:

You Can't Get Lard Unless You Boil the Hog

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What is Remote Access to Courts?

- Phone / Telephonic Access
- **CourtCall / Zoom / Teams / WebEx** / Video Conference Access
- Letters to the Court / Motions / Filings
- *What else?*

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Who Needs Remote Access In Courts?

Remote hearings to accommodate:

- People with disabilities
- People with jobs
- People with kids
- People without valid driver's licenses, cars, or reliable transportation
- People without reliable access to free high-speed internet
- People experiencing technological difficulties

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Why Give Remote Access in Courts? Judicial Canons

1. Upholding the Integrity and Independence of the Judiciary
2. Complying with existing law and promoting public confidence in judiciary
3. Performing the Duties of the Judicial Office Impartially and Diligently

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Why Give Remote Access In Courts? TRCP 500.10 Appearances At Court Proceedings

Factors In Determining Whether to Allow or Require Electronic Participation:

- case type;
- number of parties and witnesses;
- type of evidence to be submitted, if any;
- technological restrictions such as lack of access or proficiency;
- travel restrictions such as lack of transportation, distance, or inability to take off work;
- whether a method of appearance is best suited to provide necessary language access services for a person with limited English proficiency or accommodations for a person with a disability;
- any previous abuse of a method of appearance; and
- any agreement or objection by the parties.

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Why Give Remote Access in Courts? Studies Show:

Benefits of Remote Proceedings:

- **Evictions less common**
- **Gaps in procedural justice narrowed / closed**
- Unrepresented defendants accessing court remotely reported **higher satisfaction** with case outcomes than those attending court in person
- **Stress, social exclusion, social identity threats reduced**

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How To: Suggested Best Practices

1. Maintain virtual hearings as an option
2. Ensure phone participation is available
3. Make shorter proceedings presumptively remote
4. Reduce or eliminate the use of trailing dockets
5. Ensure that instructions are available in multiple languages and that there are picture instructions for court users who do not read
6. Utilize kiosks and provide information about locations in the community that offer free Wi-Fi such as schools and libraries

What else are you doing in your courts?

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How To: Free Remote Access Resources

- **TLSC Virtual Court Kiosks:** tlsc.org/kiosks
- **PCs for People, Digitunity, Computodot** connect constituents in need with computers, hot spots
- OCA's **Court Reminders Program** (new) <https://ecourtdate.com/texas-court-reminders>
- OCA's **Texas Court Remote Interpreter Service (TCRIS)**: courts can schedule a free interpreter by telephone or video conference! txcourts.gov/tcris



What else are you using?

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How To: Other Remote Access Resources

- **CourtCall / Zoom / Teams / WebEx**
- **Language Line** (Texas DIR Contract)
- **Search Engines** for Texas Interpreters: JBCC, TAJIT, NAJIT
- DHHS Contractors for Deaf and Hard of Hearing Service Providers

What else are you using?

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Language Access:

Quit Hollering Down the Rain Barrel!

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Who Needs Language Access to Courts

Individuals who are deaf/hard of hearing

Limited English Proficiency [LEP] individuals

- Identify the languages spoken at home by at least 1,000 county LEP residents using **Census data**
- If your county population is ≥50,000 people and the language requiring interpretation is Spanish, the appointed interpreter **must be licensed**.

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Interpreter vs. Translator

An **interpreter** transfers a spoken or signed message from the source language into a spoken or signed message in the target language.

A **translator** transfers a written message from the source language into a written message in the target language.

Being bilingual ≠ knowing how to interpret. Interpreters have special skills and training, beholden to their own Code of Ethics for Licensed Court Interpreters. Interpreters must be qualified by the court. For guidance on how to qualify an interpreter, look to **Texas Rule of Evidence 604**.

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Certified v. Licensed, Basic v. Master

A **certified court interpreter** is used for an individual who has a hearing impairment.

A **licensed court interpreter** is used for an individual who can hear but does not comprehend or communicate in English.

—A **basic licensed court interpreter** can be used in Municipal Courts that are not courts of record and justice courts (but **not** for magistration)

—A **master licensed court interpreter** can be used in any court

See Texas Government Code 57.002 and 157.101

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A Note on Magistration

Tex. Code Crim. Pro. Art. 15.17 (a) "The magistrate **shall inform in clear language** the person arrested, either in person or through a videoconference . . . If the person does not speak and understand the English language or is deaf, the magistrate **shall inform the person in a manner consistent with Articles 38.30 and 38.31**, as appropriate."

Tex. Code Crim. Pro. Art. 15.17 (c) "When a deaf accused is taken before a magistrate under this article [. . .], **an interpreter appointed by the magistrate qualified and sworn as provided in Article 38.31 of this Code shall interpret the warning required by those articles in a language that the accused can understand**, including but not limited to sign language."

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Tex. Code Crim. Pro. Art. 38.30: LEP

(a) "...an interpreter must be sworn to interpret for the person charged ... Any [can be subpoenaed] to act as interpreter [If] the only available interpreter is not considered to possess adequate interpreting skills for the particular situation or the interpreter is not familiar with use of slang, the person charged ... may be permitted by the court to nominate another person to act as intermediary between the person charged [...] and the appointed interpreter during the proceedings."

(a-1) A **qualified telephone interpreter** (157.001 licensed or federally certified) may be sworn to interpret [...] if an interpreter is not available to appear in person at the proceeding or if the only available interpreter is not considered to possess adequate interpreting skills for the particular situation or is unfamiliar with the use of slang.

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Tex. Code Crim. Pro. Art. 38.31: Deaf Persons

(a) "...the court **shall appoint a qualified interpreter** to interpret the proceedings in any language that the deaf person can understand, including but not limited to sign language."

(e) Interpreter Oath

(g)(1) "**Deaf Person**:" a person who has a hearing impairment that inhibits the person's comprehension of the proceedings or communication with others.

(g)(2) "**Qualified Interpreter**:" an interpreter for the deaf who holds a current legal certificate issued by the National Registry of Interpreters for the Deaf or a current court interpreter certificate issued by the Board for Evaluation of Interpreters at the Department of Assistive and Rehabilitative Services.

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Why Give Language Access to Courts: How Texas Squares Up Nationwide

Texas currently ranks 38th out of the USA's states and territories in the National Center for Access to Justice's Language Access Justice Index

In Texas, nearly 15% of the population over 5 years of age has LEP

Federal Law:

- Title VI of the Civil Rights Act of 1964, USC 2000d et seq.
- Americans with Disabilities Act (ADA)
- DOJ Dear Colleague Letter and LEP Guidance

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Why Give Language Access to Courts: Texas Law

State:

- Tex. Gov. Code Ch. 57, Subchapter A
- Tex. Gov. Code, Ch. 157
- Tex. Civ. Prac. & Rem. Code, Ch. 21
- TRCP Rule 145
- TRCP Rule 183
- Tex. R. Evid., Rule 604

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When to Appoint a Certified/Licensed Interpreter

Tex. Gov. Code 57.002(a): A court *shall* appoint a certified/licensed interpreter:

1. Upon motion of a party
 2. Upon the request of a witness
- In a civil or criminal proceeding in the court.

Tex. Gov. Code 57.002(b): A court *may* appoint a certified/licensed interpreter:

- On its own motion
- For an LEP person

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Who Can Act as an Interpreter in my Court? Population ≥ 50,000

- If the language is Spanish, the interpreter must be licensed.
- For **any other language** besides Spanish, if no licensed interpreter is found within 75 miles, the court may appoint an unlicensed interpreter.

Court proceedings include:

- Civil and criminal trials
- Depositions
- Mediations
- Court-ordered arbitrations, and
- Arraignments

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Who Can Act as an Interpreter in my Court? Population <50,000

In counties <50,000 people, a court may appoint a spoken language interpreter who is not a licensed court interpreter.

The law, however, specifies that an appointed interpreter must be:

- **qualified as an expert under the Texas Rules of Evidence,**
- must be at least **18 years of age**, and
- **must not be a party to the proceeding.**

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Free Resource: OCA's Texas Court Remote Interpreter Service (TCRIS)

The Texas Court Remote Interpreter Service (TCRIS) provides:

- **free** Spanish, French, Portuguese and German language interpreting services by state licensed court interpreters in *all* case types,
- for short, non-contested and non-evidentiary hearings that would typically last 30 minutes or less by advanced scheduling or on demand, as available,
- by telephone or by video conference, using the court's existing equipment.

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How To: Language Access in Your Court

- Check if your county has an **ADA Coordinator**
- Check if your county has a **Language Access Plan**, view other plans & resources at txcourts.gov/lap
- **"I Speak" Card**
- **Interpreting & Reasonable Accommodation Motions**
- **OCA's Court Reminders Program**
- **OCA's Texas Court Remote Interpreter Service (TCRIS)**
- **Language Line** (Texas DJR Contract)
- For interpretation and translation needs not covered by TCRIS, see txcourts.gov/lap/
- For interpreters for the deaf/hard of hearing, check the state or national certified lists [here](#).
- **Search Engines** for TX Interpreters: JBCC, TAJIT, NAJIT
- **Online Resources:** TJCTC, TexasLawHelp.org, OCA

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To Do List:

Keep Your Saddle Oiled

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To Do:

1. Check population (if ≥50k, **licensed Spanish interpreter required**)
2. Check if your county has an **ADA Coordinator**
3. Check if your county has a **Language Access Plan**, view other plans & resources at txcourts.gov/lap
4. Look up **kiosks**, key locations in the community that offer free Wi-Fi such as schools and libraries.
5. Connect constituents with resources (**kiosks, PCs for People, Digitunity, Computodot**)
6. Utilize tools: **I Speak Card, Motion for Interpreter, Motion to Request Accommodation**
7. Bookmark **TCRIS** and search engines for TX Interpreters (**JBOC, TAJIT, NAJIT**)
8. Have your county sign up for **OCA's Court Reminders Program**
<https://ecourtdate.com/texas-court-reminders>
9. Ask your county about contracting with Language Line and **DHHS Contractors for Deaf and Hard of Hearing Service Providers**

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