5.8 Right to Other Assistance
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5.8 Right to Other Assistance

A. Interpreters

For deaf clients. Under G.S. 8B-2(a), a deaf person is entitled to a qualified interpreter for any interrogation, arraignment, bail hearing, preliminary proceeding, or trial. *See also* G.S. 8B-2(d) (no statement by a deaf person without a qualified interpreter present is admissible for any purpose); G.S. 8B-5 (if a communication made by a deaf person through an interpreter is privileged, the privilege extends to the interpreter).

Obtaining an interpreter is a routine matter, not subject to the requirements on appointment of experts discussed above. For an AOC form for appointment of a deaf interpreter, see AOC-G-116, "Motion, Appointment, and Order Authorizing Payment of Sign Language Interpreter or Other Communication Access Service Provider" (Sep. 2022). The superior court clerk should have a list of qualified interpreters. *See* G.S. 8B-6.

For clients with limited English proficiency (LEP). An indigent criminal defendant with limited English proficiency is entitled to a foreign language interpreter for in-court proceedings (such as trials, hearings, and other appearances) and out-of-court matters (such as interviews of the defendant and of LEP witnesses). Obtaining an interpreter is a routine matter, not subject to the requirements on appointment of experts discussed above. The AOC is responsible for administering the foreign language interpreter program, and the AOC Office of Language Access Services revised its Standards for Language Access Services in 2024. To request a Spanish language interpreter for in-court proceedings, counsel should submit the online Interpreter Request Form. For out-of-court matters, counsel should directly contact a Spanish language interpreter listed in the AOC Registry of Spanish Language Court Interpreters. To request an interpreter for any other language, counsel should submit the online Interpreter Request Form for both in-court and out-of-court services. Under an agreement between IDS and AOC, IDS funds out-of-court interpreter services for defendants and AOC funds in-court services, but the procedure for obtaining an interpreter is the same. *See* Office of Indigent Defense Services, Out-of-Court Foreign Language Interpretation and Translation for Indigent Defendants and Respondents (Oct. 2023).

No North Carolina statute specifically addresses the right to a foreign language interpreter. *See generally* G.S. 7A-343(9c) (AOC director's duties include prescribing policies and procedures for appointment and payment of foreign language interpreters); *see also State v. Torres*, 322 N.C. 440 (1988) (recognizing court's inherent authority to

appoint foreign language interpreter). G.S. 7A-314(f), which dealt specifically with interpreters for indigent defendants, was repealed in 2012 and was replaced by an uncodified provision directing the Judicial Department to provide assistance to LEP individuals, assist the courts in the fair, efficient, and accurate transaction of business, and provide more meaningful access to the courts. *See* 2012 N.C. Sess. Laws Ch. 142, § 16.3(c) (H 950). The 2012 legislative change was intended to expand services and was prompted by a March 2012 report from the U.S. Department of Justice finding that North Carolina's provision of interpreter services was unduly limited and did not comply with federal law. *See* Report of Findings (U.S. Dep't. of Justice, Mar. 8, 2012).

An indigent defendant also may obtain necessary translation services. (Translation refers to converting written text from one language to another, while interpretation refers to rendering statements spoken in one language into statements spoken in another language.) For a discussion of obtaining translation services, see Office of Indigent Defense Services, Out-of-Court Foreign Language Interpretation and Translation for Indigent Defendants and Respondents at 4 (Oct. 2023) (describing procedure for obtaining translation of attorney-client correspondence and circumstances in which translation of discovery may be appropriate).

For others. An interpreter may be appointed whenever the defendant's normal communication is unintelligible. *See State v. McLellan*, 56 N.C. App. 101 (1982) (defendant had speech impediment). For a discussion of other issues relating to interpreters in criminal cases, see Jonathan Holbrook, *Courtroom Interpreter: Need vs. Want,* N.C. CRIM. L., UNC SCH. OF GOV'T BLOG (Feb. 11, 2020).

For more information and resources on language access services, including a registry of foreign language court interpreters and interpreter policies, contact the AOC's Office of Language Access Services.

B. Transcripts

As a matter of equal protection, an indigent defendant is entitled to a transcript of prior proceedings when the transcript is needed for an effective defense or appeal. *Britt v. North Carolina*, 404 U.S. 226, 227 (1971); *see also* G.S. 7A-450(b) (indigent defendant entitled to "counsel and the other necessary expenses of representation"). The test is "(1) whether a transcript is necessary for preparing an effective defense and (2) whether there are alternative devices available to the defendant which are substantially equivalent to a transcript." *State v. Rankin*, 306 N.C. 712, 716 (1982). Under this test, an indigent defendant may be entitled to a transcript of prior proceedings in the case, such as the transcript of a probable cause hearing or other evidentiary proceeding. *See generally State v. Reid*, 312 N.C. 322 (1984) (per curiam) (defendant entitled to new trial where not provided with transcript of prior trial before retrial); *State v. Tyson*, 220 N.C. App. 517 (2012) (same). A sample motion for production of transcript of prior trial is available on the IDS website in the Discovery Motions section of the Adult Criminal Motions Bank.

C. Other Expenses

Under G.S. 7A-450(b), the State has the responsibility to provide an indigent defendant with counsel and "the other necessary expenses of representation." This general authorization may provide the basis for payment of various expenses incident to representation, such as suitable clothing for the defendant.