

Ala.Code 1975 § 12-21-131

Code of Alabama [Currentness](#)

Title 12. Courts.

Chapter 21. Evidence and Witnesses. ([Refs & Annos](#))

Article 1. . General Provisions.

[Division 2](#). . Witnesses.

[Subdivision 1](#). Generally. ([Refs & Annos](#))

**➔§ 12-21-131. Interpreters for persons defective in speech and/or hearing -- When furnished; qualifications; notice of need for interpreter; proof of deafness; requests to be channeled through certain organizations; listing of qualified interpreters; oath of interpreter; confidentiality; fee for services.**

(a) "Deaf person" means any person either totally deaf, or who has defective hearing, or who has both defective hearing and speech.

(b) For the purpose of this section, the term "qualified interpreter" means an interpreter certified by the National Registry of Interpreters for the Deaf, Alabama Registry of Interpreters for the Deaf, or, in the event an interpreter so certified is not available, an interpreter whose qualifications are otherwise determined. Efforts to obtain the services of a qualified interpreter certified with a legal skills certificate or a comprehensive skills certificate will be made prior to accepting services of an interpreter with lesser certification. No "qualified interpreter" shall be appointed unless the appointing authority and the deaf person make a preliminary determination that the interpreter is able to readily communicate with the deaf person and is able to accurately interpret the statements of the deaf person and interpret the proceedings in which a deaf person may be involved.

(c) In any case in law or equity before any court or the grand jury, wherein any deaf person is a party to such action, either as a complainant, defendant, or witness, the court shall appoint a qualified interpreter to interpret the proceedings to the deaf person and interpret his testimony or statements and to assist in preparation with counsel.

(d) In any proceeding before any department, board, commission, agency, or licensing authority of the state, in any political subdivision or municipality, wherein any deaf person is a principal party of interest, either as a complainant, respondent, plaintiff, defendant, or witness such department, board, commission, agency, licensing authority or municipality shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret his testimony or statements.

(e) In the event a person who is deaf is arrested and taken into custody for any alleged violation of a criminal law of this state, the arresting officer and his superiors shall procure a qualified interpreter in order to properly interrogate such deaf person and to interpret such person's statements. No statement taken from such deaf person before an interpreter is present may be admissible in court.

(f) Every deaf person whose appearance before a proceeding entitles him to an interpreter should notify the appointing authority of his need prior to any appearance and should request at such time the services of an interpreter; provided that where a deaf person reasonably expects the need for an interpreter to be for a period greater than a single day he should notify the appointing authority and such notification shall be sufficient for the duration of his participation in the proceedings.

(g) An appointing authority may require a person requesting the appointment of an interpreter to furnish reasonable proof of his deafness when the appointing authority has reason to believe that the person is not deaf.

**(h) It shall be the responsibility of the appointing authority to channel requests for qualified interpreters through (1) The Alabama Registry of Interpreters for the Deaf; (2) Alabama Association of the Deaf; or, in the alternative, (3) any community resource wherein the appointing authority or the deaf person is knowledgeable that such qualified interpreters can be found. It shall be the responsibility of the Alabama Registry of Interpreters for the Deaf to compile and update annually a listing of qualified interpreters approved by the Alabama Association for the Deaf and to make this listing available to authorities in possible need of interpreter service as provided in this section.**

(i) Before a qualified interpreter will participate in any proceedings subsequent to an appointment under the provisions of this section, such interpreter shall make an oath or affirmation that such interpreter will make a true interpretation in an understandable manner to the deaf person for whom he is appointed and that such interpreter will interpret the statements of the deaf person desiring that statements be made, in the English language to the best of such interpreter's skill and judgment. The appointing authority shall provide recess periods as necessary for the interpreter when the interpreter so indicates. Any and all information that the interpreter gathers from the deaf person pertaining to any proceeding then pending shall at all times remain confidential and privileged, or on an equal basis with the attorney-client privilege, unless such deaf person desires that such information be communicated to other persons.

(j) An interpreter appointed under the provisions of this section shall be entitled to a reasonable fee for such services. **The fee shall be in accordance with standards established by the Alabama Registry of Interpreters for the Deaf, in addition to actual expenses for travel and transportation.** When the interpreter is appointed by a court, the fee and expenses shall be paid out of the State General Fund from "Court Costs Not Otherwise Provided." When the interpreter is otherwise appointed, the fee shall be paid out of funds available to the appointing authority.

CREDIT(S)

(Acts 1965, No. 799, p. 1499, § 1; Acts 1988, No. 88-538, p. 835.)

HISTORY

Code Commissioner's Notes

This section is superseded by [A.R.C.P., Rule 43](#), as to civil proceedings, but has been retained for possible applicability in criminal or probate proceedings.

CROSS REFERENCES

As to foreign language interpreters, see [§ 15-1-3](#).

For this section being commented on by [Rule 604, Alabama Rules of Evidence](#), effective January 1, 1996, see the Advisory Committee's Notes to [Rule 604](#) in Volume 23.

LIBRARY REFERENCES

American Digest System:

[Trial](#) ¶22.

Corpus Juris Secundum:

[C.J.S. Trial § 95](#).

## RESEARCH REFERENCES

Treatises and Practice Aids

[Alabama Evidence 3d § 6:1](#), Alabama Practice.

[Alabama Evidence 3d § 6:13](#), Alabama Practice.

[Alabama Pattern Jury Instructions Civil, 2d 15.19](#), Oath to Interpreter for Persons Defective in Speech And/Or Hearing.

## CASENOTES

Constitutionality [1](#)

Deaf mute [3](#)

Questions for court [4](#)

Relation to other laws [2](#)

### [1](#). Constitutionality

The defendant's constitutional rights were not violated where the trial court allowed an interpreter to aid the defendant at trial, even though the translator had not translated all of the trial to the defendant as he did have some understanding of the English language. [Soriano v. State, 527 So.2d 1367 \(Ala.Crim.App.1988\)](#).

### [2](#). Relation to other laws

This section authorizes the trial judge to furnish an interpreter to a party or witness. However, § 12-21-133 places a duty on the handicapped person or his attorney to request an interpreter. [Turner v. State, 429 So.2d 645 \(Ala.Crim.App.1982\)](#).

All the law contemplates is that the accused know and understand the nature of the accusation he is called upon to answer. Where there is no request for an interpreter pursuant to § 12-21-133, it is immaterial how this constitutional requirement is satisfied -- so long as it is actually satisfied. [Turner v. State, 429 So.2d 645 \(Ala.Crim.App.1982\)](#).

### [3](#). Deaf mute

Deaf mute not disqualified to be witness by reason of such handicap. [Todd v. State, 380 So.2d 370 \(Ala.Crim.App.1980\)](#).

It is permissible for a deaf mute to testify against the objections that the party against whom such testimony is given will be put to great disadvantage in cross-examination to test the witness's credibility. [Todd v. State, 380 So.2d 370 \(Ala.Crim.App.1980\)](#). [Witnesses](#) ↩️43

### [4](#). Questions for court

In determining qualifications of a deaf mute to testify and the selection and qualification of the interpreter, much must be left to the sound discretion of the trial judge who has full opportunity to see and observe the witness and the interpreter in the presence and the hearing of the interested parties and their counsel. [Todd v. State, 380 So.2d 370 \(Ala.Crim.App.1980\)](#).

Ala. Code 1975 § 12-21-131, AL ST § 12-21-131

Current through End of 2010 Regular Session.

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