

State of New Jersey

Law Revision Commission

FINAL REPORT

Relating to

OATHS AND AFFIDAVITS

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NEW JERSEY LAW REVISION COMMISSION
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INTRODUCTION

Source Title 41, Oaths and Affidavits, is a collection of provisions that are concerned both with official oaths taken by public officers and with so-called “ordinary” oaths and affidavits used for various purposes. This proposed revision of the entire Title eliminates some no-longer-necessary provisions, including provisions concerning the Western Board of Proprietors, and some superseded provisions criminalizing perjury and false swearing. These provisions have been superseded by Title 2C, and are recommended for repeal in other projects completed by the Law Revision Commission.

Those provisions deemed to have continuing validity have been reorganized and regularized. A new provision permitting a certification in lieu of oath has been added.

The revised provisions have been divided into two chapters, “Official oaths” and “Oaths and affidavits.” The first chapter deals with the official oaths of office taken by elected and appointed officials at the commencement of their service. The taking of such oaths by certain State officers and the substance of the oaths is mandated by the New Jersey Constitution. The proposed second chapter deals with so-called ordinary oaths, that is, a swearing or affirmation to tell the truth. The source provisions regarding these two distinct types of oaths were somewhat intertwined, and every effort has been made to distinguish them in the separate chapters.

Chapter A - Official oaths

This chapter governs official oaths, that is, the oaths taken by elected and appointed public officials and other public functionaries such as attorneys and members of the militia. The source of the oath requirement in general is the New Jersey Constitution, which specifies that an oath of office and an oath of allegiance must be taken by “every state officer.” *N.J. Const.*, Art. VII, §1, ¶1. The term “state officer” is not defined, but it clearly includes the Governor, the Attorney General, the Secretary of State and the head of each principal department in the Executive branch. *See, Imbrie v. Marsh*, 5 *N.J. Super.* 239, *aff'd* 3 *N.J.* 578 (1950). See also *N.J. Const.*, Art. IV, §8, ¶¶1 & 2 (requiring members of the Legislature and officers of the Legislature to take a specified oath).

The constitutional provision generally requiring every state officer to take an oath specifically requires an “oath or affirmation to support the Constitution of this State and of the United States and to perform the duties of his office faithfully, impartially and justly to the best of his ability.” In the source statutes, the two elements of the oath

requirement were separately designated the oath of office and the oath of allegiance. The separate treatment of these two elements is continued in this revision.

Note that specific forms of oath are prescribed elsewhere in the New Jersey Statutes for various public officials, e.g., *N.J.S. 52:15-2*, which prescribes the Governor's oath of office.

A-1. Oath of office, form

If no oath of office is specially prescribed by law for a particular office, the form of the oath of office shall be as follows:

"I, _____ do solemnly swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of _____ to the best of my ability."

Any person taking the oath of office may add the phrase "So help me God."

The taking of an oath of office by affirmation shall have the same effect as a sworn oath of office.

Source: 41:1-3, 41:1-4, 41:1-5, 41:2A-6

COMMENT

This proposed section combines the provisions of the source sections into a single section. Note that the requirement to take an oath is contained in the New Jersey Constitution, *see, N.J. Const.*, Art. VII, sec. 1, par. 1 ("every state officer") and Art. IV, sec. 8, par. 1 & 2 (members of the Legislature and officers of the Legislature). The constitution sets forth two elements to the official oath, which historically have been separated out in the New Jersey Statutes as the "oath of office" and the "oath of allegiance." The oath of allegiance is continued in a separate proposed provision. Both the source provision and this proposed provision track the language in *N.J. Const.* Art. VII, sec. 1, par. 1. The form of the oath eliminates the word "accordingly" to conform to the constitutional language, and makes it clear that the reference "So help me God," which is not contained in the constitutional text, is optional. Note that the oath provided in the separate source section on judicial oaths, *N.J.S. 41:2A-6*, is identical to the official oaths provided in the New Jersey Constitution and in the other source provisions.

A-2. Oath of allegiance, form

The Oath of Allegiance shall be as follows:

"I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people.

Any person taking the oath of allegiance may add the phrase "So help me God."

The taking of an oath of allegiance by affirmation shall have the same effect as a sworn oath of allegiance.

Source: 41:1-1

COMMENT

The requirement to take an oath of allegiance is found in the New Jersey Constitution. *See, N.J.Const.* Art. VII, sec. 1, par. 1. The constitutional provision sets forth the content of the oath in general terms.

A-3. Official oaths, who must take

Each of the following, prior to undertaking the duties of office, shall take and sign the oath of office and the oath of allegiance set forth in this Title, unless another form of Oath is specially prescribed by law:

Every person elected or appointed to any public office in the executive, legislative or judicial branch of this State, including:

The Governor;

The Chief Justice and each Associate Justice of the Supreme Court;

Every judge of the Superior Court and the Tax Court;

Every judge of a municipal court;

Every surrogate, deputy surrogate, and special deputy surrogate;

Every person elected or appointed to a public office in any county, municipality or special district, or in any department, board, commission, agency or instrumentality of any of them;

Every person appointed to any office in the militia of the State;

Every attorney-at-law of the State.

Source: 41:1-2, 41:1-3, 41:2A-1, 41:2A-4, 41:2B-6

COMMENT

The New Jersey Constitution provides that official oaths must be taken by “every State officer, before entering the duties of his office.” *N.J. Const.* Art. VII, §1, ¶1. The term “state officer” is not defined, although it probably includes at least the Governor, the Attorney General and the Secretary of State, whose offices are expressly mentioned in the Constitution, as well as the head of any principal department in the Executive Branch. *See, Imbrie v. Marsh, 5 N.J. Super. 239, aff’d 3 N.J. 578 (1950).*

Various source provisions in the New Jersey Statutes require particular officerholders, some of whom may fit within the constitutional definition of “state officer,” who must take either the oath of office or oath of allegiance. The categories enumerated in the source provisions define overlapping categories of

public officials with no apparent reasons for the distinctions made in which categories must take one oath or the other.

This proposed provision attempts to reconcile the overlapping categories defined in the source statutes; it does not attempt to define the term “state officer,” but instead continues the express enumeration of various categories of public officials included in the source statutes. Thus, this provision is superfluous as to any of the enumerated officials who fall within the constitutional definition of a “state officer.” Note that there are provisions in other titles of the New Jersey Statutes that require various persons to take the oath of office or oath of allegiance. *See, e.g., N.J.S. 18A:6-7 and 18A:26-9.*

The phrase “take and subscribe the oath” in the source statute has been changed to “take and sign the oath.”

A-4. Solemnities of official oaths

Any person taking the oath of allegiance or oath of office prescribed by this Title may do so by uplifting a hand or by placing a hand on religious scriptures. Failure to uplift a hand or to place a hand on religious scriptures shall not affect the validity of the oath.

Source: New, see 41:1-4 and 41:1-5

COMMENT

This proposed section is new. There is no current section requiring a raised hand or the placing of the hand on scriptures, although such formalities are traditional. The source sections cited are those which eliminated the even more archaic practice of kissing scriptures. This section makes it clear that the traditional formalities of hand-raising and touching of scriptures are permitted but not required.

A-5. Official oaths, who may administer

a. The oath of office and oath of allegiance of the Governor, elect or acting, shall be administered by the Chief Justice or an Associate Justice of the Supreme Court, or a member of the Senate. If the Legislature is in session, the oaths shall be administered in the presence of the Senate and General Assembly at the place they designate.

b. The oath of office and oath of allegiance of a member of the Senate or of the General Assembly shall be administered by a fellow member, including a member-elect, of the same house.

c. The oath of office and oath of allegiance of the Clerk of the Supreme Court, Clerk of the Superior Court, Secretary of State or Attorney General, shall be administered by the Chief Justice or an Associate Justice of the Supreme Court, or by a judge of the Superior Court or the Tax Court.

d. The oath of office and oath of allegiance of the Chief Justice or an Associate Justice of the Supreme Court shall be administered by a Justice of the Supreme Court;

e. The oath of office and oath of allegiance of a judge of the Superior Court or Tax Court shall be administered by a Justice of the Supreme Court or by a judge of the Superior Court or Tax Court;

f. The oath of office and oath of allegiance of a judge of a municipal court or any surrogate, deputy surrogate or special deputy surrogate shall be administered by a judge of the Superior Court or the Tax Court.

g. If no other provision is made by law for the administration of the oath of office or the oath of allegiance for any other state elective or appointive office, the oaths may be administered by:

- (1) The Governor;
- (2) A member of the Legislature;
- (3) The Chief Justice or any Associate Justice of the Supreme Court;
- (4) A judge of the Superior Court or Tax Court;
- (5) The County Clerk of any county.

(6) A commissioned officer of the United States Armed Forces, provided that the signed oath contains a recital that the oath was administered by a commissioned officer, a specification of the officer's rank and official designation, and a statement that the officer taking the oath is a commissioned officer in the United States Armed Forces.

h. If no other provision is made by law for the administration of the oath of office or the oath of allegiance for any elective or appointive office in any county, municipality, school district, or other local government agency, board, committee, commission or other entity, these oaths may be administered by any of the following officers:

- (1) Any of the officers enumerated in subsection g. of this section;
- (2) Municipal judges;
- (3) Mayors and other elected municipal officers;
- (4) Surrogates, registers of deeds and mortgages, county clerks and their deputies;
- (5) Municipal clerks and clerks of boards of chosen freeholders;
- (6) Sheriffs of any county;
- (7) County executives and other elected county officials;
- (8) Clerks of all courts;
- (9) Notaries public;

- (10) Commissioners of deeds;
- (11) Attorneys-at-law of this State;
- (12) Certified court reporters, as defined in section 10 of P.L.1940, c.175 (C.45:15B-10).

Source: 41:2-4, 41:2-2, 41:2-5, 41:2-6, 41:2-7, 41:2-8, 41:2-10, 41:2-14, 41:2-15, 41:2A-3

COMMENT

This proposed provision continues various source provisions which specify who may administer the official oaths of various public officials, including the Governor. There is no special constitutional provision prescribing the form of the official oaths taken by the Governor or specifying by whom the oath is administered, although clearly the Governor is a “state officer” under the constitutional provision requiring the taking of official oaths. See discussion in the Comment to proposed section A-1. The form of oath of office taken by the Governor and any Acting Governor is, however, set forth in *N.J.S.* 52:15-2 and -4.

Subsection (b) continues source section 41:2-8, which specifies who may administer the oaths to legislators, but the proposed provision adds a reference to the administration of oaths to members of the Senate and General Assembly by members-elect, in accordance with *N.J.Const.* IV, §8, ¶1.

Subsections (d), (e) and (f) continue the rather ornate hierarchy contained in source section *N.J.S.* 41:2A-3, which specifies who may administer oaths of office to various judges and justices.

Subsection (c) and (g) derive from source section *N.J.S.* 41:2-10. Subsection (c) continues the source section provision concerning oaths taken by the clerks of the courts, the Secretary of State and the Attorney General, and subsection (g) is the “everything else” provision which sets forth who may administer the official oaths of State officials if no other provision is made by law. The officials authorized under this subsection are sufficiently numerous throughout the State, therefore the provisions in the source material specifying who may administer an official oath in the absence or disability of the first-specified official are eliminated. *See N.J.S.* 41:2-14 (specifying which officials may administer the oath to notaries and others if the county clerk is absent or disabled). The source provisions permitting commissioned officers of the United States to administer official oaths to persons in the armed services, *e.g.*, *N.J.S.* 41:2-15, which appear to have been wartime measures, are nevertheless included here and generalized.

Subsection (h) is the “everything else” provision for local government and other elective and appointive offices. Under sub-subsection (h)(1), any officer who may administer the oaths to the holder of a state office may administer the oaths to a local government holder. In addition, any of the officers enumerated under sub-subsection (h)(2) through (11) may administer the oaths of office to local government officials.

Note that this proposed section is cross-referenced in the proposed chapter on ordinary oaths, in proposed section B-1. Proposed section B-1 provides that any officer who is authorized to administer any official oath under proposed section A-5 may administer or take an ordinary oath or affidavit. This cross-reference eliminates the overlapping and confusing lists of officials enumerated in the source sections. There does not appear to be any policy reason supporting a distinction between persons who may administer an official oath and those who may administer an ordinary oath.

A-6. Signing and filing of judicial oaths

The signed oaths of every Supreme Court Justice, judge of the Superior Court and judge of the Tax Court shall be filed in the office of the Secretary of State.

Source: 41:2A-4

COMMENT

The requirement of the source section that the oaths of office of judicial officers be subscribed is not continued here as it is included in proposed section A-3, with the term “subscribe” being replaced with the term “sign” The requirement of the source section that the signed oaths of certain judicial officers be filed with the Secretary of State is continued in this section.

A-7. Enrollment by County Clerk

Upon taking the oath of allegiance and oath of office, the County Clerk shall enroll his own name and the time of his being sworn into office, and transmit a copy of the enrollment to the Secretary of State for filing.

Source: 41:2-15

COMMENT

The source section included, in addition to the provision requiring enrollment which is continued here, a provision permitting the oaths to be administered to the clerk by commissioned officers of the United States. That provision is continued and generalized in proposed section A-5.

Chapter B - Oaths and affidavits

This chapter is concerned with so-called ordinary oaths, affirmations and affidavits taken for various purposes, other than the oaths of office covered in the previous chapter. These are oaths, etc., asserting truthfulness.

A new provision permitting certification in lieu of oath is also included. This provision is patterned after the provision in the New Jersey Court Rules, which permits the use of a certification under penalty of perjury in place of an oath or affidavit which must be administered by an official functionary. See R. 1:4-4(b): “In lieu of the affidavit, oath or verification required by these rules, the affiant may submit the following certification which shall be dated and immediately precede the affiant’s signature: ‘I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.’”

B-1. Who may administer oaths and take affidavits

a. All ordinary oaths, affirmations and affidavits, other than oaths, affirmations and affidavits required to be taken or made in open court, may be taken by or made before any officer authorized by the provisions of [proposed section A-5] to take any official oath.

b. State investigators attached to the Division of Criminal Justice and county detectives and investigators attached to the office of a county prosecutor may administer oaths or take affirmations and affidavits only in relation to a matter involving a violation of the criminal laws of this State.

Source: 41:2-1, 41:2-2, 41:2-3, 41:2-3.1, 41:2-3.2

COMMENT

The proposed provision eliminates the list of functionaries enumerated in source section *N.J.S.* 41:2-1 and replaces it with a cross-reference to the section in the chapter on official oaths which enumerates who make administer such oaths. The list of authorized officials in the source sections overlapped and generated confusion. There does not appear to be any reason why an official authorized to administer an official oath may not also administer an ordinary oath.

Also consolidated in the proposed provision are individual source sections from Title 41 which permit various other functionaries to administer oaths in discrete circumstances. Note that the proposed subsection (b) is not an exclusive list of law enforcement and other officials specifically authorized to administer oaths; numerous statutes compiled in other titles authorize functionaries to administer oaths and take affidavits in connection with specified official duties. *See, e.g., N.J.S.* 12:8-6 (president of board of pilot commissioners); *N.J.S.* 17:9A-325 (commissioner of banking); *N.J.S.* 18A:3B-33 (chairman of the

Commission on Higher Education). This proposed revision does not alter these existing provisions in other titles.

Source section *N.J.S.* 41:2-2 permits certain legislators to administer oaths and affirmations in legislative proceedings. This separate source provision has been subsumed into subsection (a) of this section. Subsection (a) cross-references proposed section A-5, which in turn includes state legislators in the class of officers who may administer oaths of office. Note also that the language in source section *N.J.S.* 41:2-2 which criminalizes false statements has been superseded by the provisions of Title 2C which cover perjury and false swearing.

B-2. Formalities of oaths, affirmations and affidavits

a. Any person required or permitted by law to take an oath or to make an affidavit may instead make a solemn affirmation in the following form or its equivalent:

"I, _____, do solemnly affirm the truth of what I say."

b. Any person taking an oath or making an affirmation or affidavit required or permitted by law may do so by uplifting a hand or by placing a hand on religious scriptures. The failure to uplift a hand or to place a hand on religious scriptures shall not affect the validity of the oath.

c. It shall not be necessary to the validity or sufficiency of any oath, affirmation, declaration or affidavit that it is certified under the official seal of the officer before whom it is made.

Source: 41:1-6, 41:1-7

COMMENT

The source provision permitting an affirmation instead of an oath is continued in this proposed provision. References to declarations have been eliminated, as there does not appear to be any difference between an affirmation and declaration. Subsection b. makes it clear that uplifting a hand or the touching of religious scriptures is permitted but not required, and does not affect the validity of the act.

This subsection section also continues the provision of the source law which makes it unnecessary to the validity of an oath, affirmation, or affidavit that it contain the administering officer's official seal.

B-3. Oaths and affidavits taken out of State

a. Any oath, affirmation, or affidavit required or permitted the law of this State to be made, when made outside of the State, may be administered or taken by the following:

(1) By any notary public of the State, territory, or country in which the oath, affirmation or affidavit is made; or

(2) By any officer authorized by the laws of this State to take an acknowledgment of deeds in the State, territory, or country in which the acknowledgment is being taken.

b. The jurat or certificate of an oath, affirmation or affidavit made outside the State shall contain:

(1) the officer's official designation annexed to his signature; and

(2) a statement that the notary or officer that the notary or officer is authorized by the law of that jurisdiction to administer an oath or take an affirmation or affidavit; and

(3) the officer's official seal, if the affixation of a seal is required by the law of the officer's jurisdiction.

The inclusion of these recitals in the jurat or certificate shall be sufficient proof that the person before whom the oath, affirmation or affidavit was made is a notary or officer.

Source: 41:2-17

COMMENT

This proposed section continues the provision of the source section.

B-4. Certification in place of oath, affidavit, affirmation or declaration

Any person required or permitted by law to take an oath or to make an affirmation or affidavit before an administering officer, may instead make a written certification in the following form:

"I, [insert name] hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

The certification shall include the person's signature and the date the certification was made.

Source: New (see R.1:4-4(b))

COMMENT

This proposed provision has no source in the current statutes; it is based upon *R.1:4-4(b)*, which permits a certification in lieu of oath instead of an affidavit.

Recommended for recompilation:

The source statute below was amended in 1997 to make special provisions for notaries acting in bank matters. As amended, the section appears to belong in Title 52 with the other statutes regulating notaries rather than in this revised Title. It is recommended that this provision be reenacted and recompiled accordingly.

41:2-3. Oaths administered by notaries public in financial institution matters

a. A notary public who is a stockholder, director, officer, employee or agent of a financial institution or other corporation may administer an oath to any other stockholder, director, officer, employee or agent of the corporation.

b. A notary public employed by a financial institution may follow directions or policies of the employer which provide that during the hours of the notary public's employment by the financial institution the notary public shall not administer oaths except in the course of the business of the employer.

As used in this section, "financial institution" means a State or federally chartered bank, savings bank, savings and loan association or credit union.

Recommended for Repeal:

Statutes concerning the Board of Proprietors of the Western Division of New Jersey:

The source provisions concern the Board of Proprietors of the Western Division, an entity which shared the ownership of and the right of government over the proprietary of New Jersey in the seventeenth century. The source provisions appear to have been a convenience for the Board in executing its land dispute resolution function, permitting the administration of oaths and affirmations in the fact-finding phase of those disputes. The Western Board has not exercised any formal dispute resolution functions in many decades. There does not appear to be any current need for these provisions, and they are recommended for repeal.

41:2-18. President of council, vice president, or president pro tem., of proprietors may administer oaths.

The president of the council of proprietors of West Jersey, or, in his absence, the vice president or president pro tempore, may administer oaths or affirmations to witnesses, touching any dispute or controversy that may come before said council for their adjudications.

41:2-19. Deputy surveyors to take depositions, etc.

Deputy surveyors of the western division of New Jersey may take depositions or affirmations of citations being duly served, as also, in relation to corner lines and boundaries of land, wherein they are called to survey or resurvey, which depositions or affirmations they are hereby authorized to administer.

41:2-20. Effect of oaths administered under sections 41:2-18 or 41:2-19.

All oaths and affirmations authorized to be administered by either section 41:2-18 or 41:2-19 of this title shall have the same force and effect as if they had been taken before a justice of the peace of the proper county. The officer administering any such oath or affirmation shall cause the name of the witness and the purpose for which he was sworn or affirmed to be entered on the journals of the council of proprietors.

Statutes concerning perjury and false swearing:

The following provisions have been superseded by the enactment of the criminal code in Title 2C, and are recommended for repeal in other Law Revision Commission projects.

41:3-1. False swearing, affirmation of declaration; perjury

If any person shall willfully and corruptly swear, affirm or declare falsely, in or by any oath, affirmation, declaration or affidavit, required to be made or taken by any statute of this state, or necessary or proper to be made, taken or used in any court of this state, or for any lawful purpose whatever, such person shall be deemed guilty of perjury and punished accordingly.

41:3-2. Subornation of oaths, affirmations or affidavits made or taken out of state.

If any oath, affirmation or affidavit made or taken under authority of section 41:2-17 of this title, or any material part thereof, shall be untrue, any person who shall use or

offer the same for any purpose whatever, knowing the same to be untrue, shall be guilty of a high misdemeanor, and shall upon conviction thereof suffer the same punishment as if convicted of subornation of perjury, and shall be subject to the same disabilities.

Provisions concerning coroners:

The following three sections are concerned with the administration of the officials oaths to coroners. The office of coroner was eliminated several decades ago. See *N.J.S.* 52:17B-93 to 94.

41:2-11. Coroner's oath of office and allegiance.

The county clerk of each county or any commissioned officer of the United States Army, Navy or Marine Corps may administer the oath of office and allegiance to every person chosen or appointed as a coroner in or for said county; provided, that when said oaths of office and allegiance have been administered by a commissioned officer there shall be a recital that he is such commissioned officer including a recital of his rank and official designation as such and that the person taking such oath is in the military or naval service of the United States.

41:2-12. Enrollment of names by county clerk.

The county clerk shall enroll the name of every person to whom he shall administer the oaths mentioned in section 41:2-11 of this Title, together with the time of administering the same, to be by him filed in his office, and shall transmit, within twenty days after administering such oath, a copy of the enrollment to the Secretary of State to be by him filed in his office.

41:2-13. Judge to act in absence of county clerk.

If the county clerk be absent, removed or dead, then any judge of the Superior Court may administer the oaths of office and allegiance to the persons, or any of them, required to take the same in and by section 41:2-11 of this Title. The judge shall report the name of the person to whom said oaths were administered, and the date thereof, to the said clerk or his successor, who shall enroll the same and transmit a copy of such enrollment to the Secretary of State, as is directed by section 41:2-12 of this Title.

Source sections:

41:1-1. Oath of allegiance; form.

Every person who is or shall be required by law to give assurance of fidelity and attachment to the Government of this State shall take the following oath of allegiance:

"I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of New Jersey, and that I will bear true faith and allegiance to the same and to the Governments established in the United States and in this State, under the authority of the people So help me God."

Amended. L. 1949, c. 21, sec.1; L. 1971, c. 217, sec.6.

41:1-2. Persons required to take oath of allegiance.

The governor for the time being of this state, and every person who shall be appointed or elected to any office, legislative, executive or judicial, under the authority of this state, or to any office in the militia thereof, and every counselor, solicitor and attorney at law, shall, before he enters upon the execution of his trust, office or duty, take and subscribe the oath of allegiance prescribed by section 41:1-1 of this title.

41:1-3. Oath of allegiance and oath of office; persons required to take; form.

Every person who shall be elected, or appointed to any public office in this State or in any county, municipality or special district other than a municipality therein, or in any department, board, commission, agency or instrumentality of any thereof, and is required to take and subscribe an oath of office shall, before he enters upon the execution of his said office take and subscribe the oath of allegiance set forth in R.S. 41:1-1 and, in addition, (a) any specially prescribed official oath, or (b) if no text is specially prescribed for such oath of office, the following official oath of office:

"I, do solemnly swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of according to the best of my ability. So help me God."

Amended. L. 1949, c. 22, sec.1; L. 1962, c. 202, sec.1; L. 1971, c. 217, sec.7.

41:1-5. Swearing with uplifted hand instead of kissing and touching book; when authorized.

Every person who shall be permitted or required to take an oath in any case, where, by law, an oath is allowed or required, may take the same with the ceremony of lifting up the hand and swearing by the ever-living God, instead of that of touching and kissing the book of the gospels; and every person who is or shall be empowered and required to tender and administer an oath in the usual form, shall be and is empowered and required, on request of the party to be sworn, to administer the same in the manner herein prescribed.

An oath, which shall be administered and taken agreeably to the mode prescribed in this section shall be as good and effectual as if the same had been administered and taken in the usual form of laying the hand on and kissing the gospels.

41:1-6. Affirmations and declarations; when authorized; forms; legal effect.

Every person, permitted or required to take an oath in any case, where, by law, an oath is allowed or required, and who shall allege that he is conscientiously scrupulous of taking an oath, shall, instead of an oath, be permitted to make solemn affirmation or declaration in one of the following forms, to wit:

"I, _____, do solemnly, sincerely and truly declare and affirm": or,

"I, _____, do declare, in the presence of Almighty God, the witness of the truth of what I say":

Either of which forms shall be as good and effectual in law, as an oath taken in the usual form. In the affirmation or declaration, the words "so help me God", at the close of the usual oath, shall be omitted.

Every person empowered and required to tender and administer an oath in the usual form, is empowered and required to tender and administer the affirmation or declaration prescribed by this section, when requested so to do by any such scrupulous person.

41:1-7. Seal not necessary to validity of oath or affidavit.

It shall not be necessary to the validity or sufficiency of any oath, affirmation or affidavit, made or taken before any of the persons named in section 41:2-1 of this title, that the same shall be certified under the official seal of the officer before whom made.

41:2A-1. Judicial officers.

The Chief Justice and each Associate Justice of the Supreme Court, each judge of the Superior Court and each judge of the tax court, before entering upon the duties of his office, shall take and subscribe the oath of allegiance prescribed by R. S. 41:1-1, and the oath of office required to be taken by judicial officers.

Adopted. L. 1948, c. 335, sec.1. Amended. L. 1951, c. 350, sec.1; L. 1971, c. 217, sec.8;L. 1981, c. 428, sec.1; L. 1988, c. 80, sec.2.

41:2A-3. Administration by judges.

Any justice of the Supreme Court may administer the oath to a person appointed Chief Justice of the Supreme Court or Associate Justice of the Supreme Court, and any justice of the Supreme Court, judge of the Superior Court or judge of the tax court may administer the oath to a person appointed a judge of the Superior Court or judge of the tax court. Any judge of the Superior Court or judge of the tax court may administer the oath to a person appointed a judge of a municipal court and any surrogate, deputy surrogate or special deputy surrogate.

Adopted. L. 1948, c. 335, sec.3. Amended. L. 1953, c. 39, sec.14; L. 1981, c. 428, sec.2;L. 1988, c. 80, sec.3.

41:2A-4. Subscription, filing.

The oaths shall also be subscribed by the judicial officer taking the oaths and, if the judicial officer is a Supreme Court Justice, judge of the Superior Court or judge of the tax court, shall be filed in the office of the Secretary of State.

Adopted. L. 1948, c. 335, sec.4. Amended. L. 1981, c. 428, sec.3; L. 1988, c. 80, sec.4.

41:2A-6. Form of oath.

The Chief Justice, the Associate Justices of the Supreme Court, the judges of the Superior Court, the judges of the tax court, the judges of the municipal courts and the surrogates, deputy surrogates and special deputy surrogates shall, before entering upon the execution of their respective offices, take and subscribe the following oath:

"I, _____, do solemnly swear that I will support the Constitution of this State and the Constitution of the United States, and will perform the duties of my office, faithfully, impartially and justly, to the best of my ability. So help me God."

Adopted. L. 1951, c. 351, sec.1. Amended. L. 1981, c. 428, sec.4; L. 1988, c. 80, sec.5.

41:2-1. Officers authorized to take oaths.

All oaths, affirmations and affidavits required to be made or taken by law of this State, or necessary or proper to be made, taken or used in any court of this State, or for any lawful purpose whatever, may be made and taken before any one of the following officers:

The Chief Justice of the Supreme Court or any of the justices or judges of courts of record of this State;

Masters of the Superior Court;

Municipal judges;

Mayors or aldermen of cities, towns or boroughs or commissioners of commission governed municipalities;

Surrogates, registers of deeds and mortgages, county clerks and their deputies;

Municipal clerks and clerks of boards of chosen freeholders;

Sheriffs of any county;

Members of boards of chosen freeholders;

Clerks of all courts;

Notaries public;

Commissioners of deeds;

Members of the State Legislature;

Attorneys-at-law and counsellors-at-law of this State;

Certified court reporters, as defined in section 10 of P.L.1940, c.175 (C.45:15B-10).

This section shall not apply to official oaths required to be made or taken by any of the officers of this State, nor to oaths or affidavits required to be made and taken in open court.

Amended by L.1951, c. 302, p. 1084, § 1; L.1953, c. 39, p. 752, § 1; L.1953, c. 428, p. 2152, § 3; L.1964, c. 165, § 1; L.1968, c. 169, § 1, eff. July 16, 1968; L.1970, c. 182, § 1, eff. Aug. 19, 1970; L.1983, c. 495, § 1, eff. Jan. 17, 1984; L.1986, c. 124, § 1, eff. Oct. 9, 1986; L.2007, c. 73, § 1, eff. April 30, 2007.

41:2-2. Oaths to witnesses in examinations before legislature or committees; perjury.

The president of the senate, the speaker of the general assembly and the chairman of a committee of the whole, or of any select or standing committee of either house of the legislature, are respectively empowered to administer oaths and affirmations to witnesses, in any matter or case under their examination; and any person who shall willfully or corruptly swear or affirm falsely touching any matter or thing material to the point in question, whereto he shall be thus examined shall be deemed guilty of perjury and punished accordingly.

41:2-3. Oaths administered by notaries public in bank matters.

A notary public who is a stockholder, director, officer, employee or agent of a bank or other corporation may administer an oath to any other stockholder, director, officer, employee or agent of the corporation.

41:2-3.1. County detectives and investigators authorized to administer oaths; proviso.

County detectives and investigators attached to the office of the county prosecutor in the several counties of this State are hereby authorized and empowered to administer oaths; provided, however, that such oaths are administered only in relation to a matter involving a violation or an attempted violation of the criminal laws of this State.

Adopted. L. 1939, c. 276, sec.1. Amended. L. 1953, c. 39, sec.2.

41:2-3.2. Administration of oaths.

State investigators attached to the Division of Criminal Justice may administer oaths, if the oaths are administered only in relation to a matter involving a violation or an attempted violation of the criminal laws of this State.

Adopted. L. 1982, c. 221, sec.1.

41:2-4. Oath of allegiance.

Any court of judicature or any commissioned officer of the United Army, Navy or Marine Corps shall administer the oath of allegiance to such person as shall be by law required to take the same in such court; provided, that when said oath of allegiance shall be taken before a commissioned officer there shall be a recital that he is such commissioned officer including a recital of his rank and official designation as such and that the person taking such oath is in the military or naval service of the United States.

Amended. L. 1944, c. 59, sec.1.

41:2-5. Oath of allegiance, when required.

It shall be lawful for every court, body corporate, judge, magistrate, any commissioned officer of the United States Army, Navy or Marine Corps or other person, before whom it is or shall be incumbent for any person, elected or appointed to office, to take his official oath, to administer at the same time the oath of allegiance to such person, if he is or shall be required by law to take the same; provided, that when said official oath shall be taken before a commissioned officer there shall be a recital that he is such commissioned officer including a recital of his rank and official designation as such and that the person taking such oath is in the military or naval service of the United States.

Amended. L. 1944, c. 59, sec.2; L. 1953, c. 39, sec.3.

41:2-6. Oath of allegiance, when not required.

Except as otherwise provided, where the oath of allegiance is or shall be required by law, without any official or other oath, the same may be administered by any justice, judge or magistrate of any court of this State, who shall administer the oath of allegiance to any person who shall apply to take the same.

Amended. L. 1953, c. 39, sec.4.

41:2-7. Governor's oath of office and allegiance.

The Chief Justice, or any associate justice of the Supreme Court, or any member of the Senate, shall be and is hereby authorized to administer the oaths of office and allegiance to the Governor, elect or acting, which oaths, if the Legislature be in session, shall be administered in the presence of the Senate and General Assembly at such place as they may designate.

Amended. L. 1953, c. 39, sec.5.

41:2-8. Oath of allegiance of legislators.

Any member of the senate or of the general assembly may administer the oath of allegiance to his fellow members of the same house.

41:2-10. Oaths of office.

The Chief Justice of the Supreme Court, any associate justice thereof, any judge of the Superior Court or judge of the tax court may administer the oaths of office and of allegiance to any person appointed to the office of Clerk of the Supreme Court, Clerk of the Superior Court, Secretary of State or Attorney

General, and the aforesaid justices and judges and the Governor and members of the Legislature may administer the oaths of office and of allegiance to any person elected or appointed to any other elective or appointive office as to which no other provision is made by law.

Amended. L. 1953, c. 39, sec.6; L. 1983, c. 408, sec.1; L. 1988, c. 80, sec.1; L. 1991, c. 365, sec.1, effective January 9, 1992.

41:2-14. Oath of office of notaries, etc.

In case of the absence, removal, death, or any other disability of the county clerk of any county, any judge of the Superior Court may administer the oaths of office and allegiance to commissioners of deeds, notaries public or other persons required to take the same before such clerk, and any official's oath so administered shall be as effectual in law as if taken in the manner prescribed by law.

Amended. L. 1953, c. 39, sec.10; L. 1991, c. 91, sec.407, effective April 9, 1991.

41:2-15. County clerk's oath of office and allegiance.

Any judge of the Superior Court or any commissioned officer of the United States Army, Navy or Marine Corps may administer the oaths of office and allegiance to the person who shall be elected or appointed county clerk; and the clerk shall thereupon enroll his own name and the time of his being sworn into office, and transmit a copy of such enrollment to the Secretary of State to be by him filed in his office; provided, that when said oaths of office and allegiance have been administered by a commissioned officer there shall be a recital that he is such commissioned officer including a recital of his rank and official designation as such and that the person taking such oath is in the military or naval service of the United States.

Amended. L. 1944, c. 59, sec.4; L. 1953, c. 39, sec.11; L. 1991, c. 91, sec.408, effective April 9, 1991.

41:2-17. Officers authorized to administer or take; jurat; certificate.

Any oath, affirmation or affidavit required or authorized to be taken in any suit or legal proceeding in this state, or for any lawful purpose whatever, except official oaths and depositions required to be taken upon notice, when taken out of this state, may be taken before any notary public of the state, territory, nation, kingdom or country in which the same shall be taken, or before any officer who may be authorized by the laws of this state to take the acknowledgment of deeds in such state, territory, nation, kingdom or country; and a recital that he is such notary or officer in the jurat or certificate of such oath, affirmation or affidavit, and his official designation annexed to his signature, and attested under his official seal, shall be sufficient proof that the person before whom the same is taken is such notary or officer. When, however, any other certificate is required by law to be annexed to the certificate of such officer, other than a notary public, for the recording of a deed acknowledged before him, a like certificate shall be annexed to his certificate of the taking of such oath.