

Purpose:

To provide all local community-based probation and pretrial services agencies with a consistent and uniform procedure for complying with the statutory requirements relating to the Oath of Office for local community-based probation and pretrial services officers.

Authorization:

§9.1-177; §19.2-152.4:1; §§ 49-1, 49-8, 49-9 and 49-11; § 2.2-1840; §§15.2-1512 and 15.2-1522; and §§1-228 and 1-250 of the *Code of Virginia*.

Related Statutes: §9.1-176.1, §9.1-177, and §19.2-152.4:3

Related Standard: Department of Criminal Justice Services *Minimum Standards for Local Community Corrections and Pretrial Services*, § 2.4 F, Personnel Policies and Procedures, Oath of Office; and §§ 3.2 and 4.2, Duties and Responsibilities.

Related Guidelines:

Guideline No. 2, Training & Staff Development

Supercession:

Supersedes Guideline No. 8 dated 7/1/2007; replaces DCJS memorandum dated July 1, 2000, Policy No. 2, "Oath of Office Legislation."

Definitions:

- "Administrative and fiscal agent" means the county or city government responsible for establishing local community-based probation and pretrial services agencies and contracting for services as authorized in Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1 and Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2 of the *Code of Virginia* for a single jurisdiction or on behalf of a combination of cities and counties.
- "Department" means the Department of Criminal Justice Services.
- "Duties and Responsibilities" mean the performance of required and optional functions identified in §9.1-176.1 and §19.2-152.4:3 for local community-based probation and pretrial services officers.
- "Full-time or part-time permanent employee" means a professional employee who has met the training requirements in accordance with DCJS policy and guidelines.
- "Oath" means the standard Oath of Office required by § 49-1 as amended for pretrial services and local community-based probation officers. "Oath" includes affirmation.
- "Officer" means any permanent full time or permanent part-time employee, who prepares defendant or offender investigations, prepares screenings and assessments, conducts interviews, presents cases in court, conducts intakes and/or who provides supervision and any director,

coordinator, or supervisor or like employee designations of a pretrial or community-based probation services agency.

- “Sworn officer” means one who has taken the prescribed Oath of Office before any general district or circuit court judge.

Policy:

I. Form of Mandatory Oath of Office for Local Community-Based Probation and Pretrial Services Officers:

A. Oath of Office for Local Probation Officer

“I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as a local community-based probation officer and that I will assist the courts within [*insert jurisdiction or jurisdictions*], the jurisdiction(s) I serve pursuant to providing probation and related services and to the requirements of the Comprehensive Community Corrections Act for Local Responsible Offenders according to the best of my ability, (so help me God).”

B. Oath of Office for Pretrial Services Officer

“I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as a pretrial services officer and that I will assist judicial officers within [*insert jurisdiction or jurisdictions*], the jurisdiction(s) I serve to discharge their duties related to bail and pursuant to the requirements of the Pretrial Services Act according to the best of my ability, (so help me God).”

II. Requirements for Oath of Office

- A. Any local community-based probation or pretrial officer shall take the required Oath of Office before entering the duties of his office.
- B. The Oath of Office shall be taken before any general district or circuit court judge in any city or county where services have been established for the judicial system by the administrative and fiscal agent for the participating localities.
- C. Individuals may be sworn as both pretrial and local probation officers subject to appropriate cross-training.
- D. As required by §15.2-1512, the Department of Criminal Justice Services covers the costs of a liability insurance policy (VA Risk II) provided by the Department of Treasury, Division of Risk Management as liability protection for Virginia public entities. This policy shall be the equivalent of giving the bond for purposes of qualification for any officer who is required by law to take an Oath of Office.
- E. The following persons engaged in the provision of local probation and pretrial services shall take the Oath of Office:

1. Full-time or part-time permanent employees of a qualified public agency established by the administrative and fiscal agent.
2. Full-time or part-time permanent employees of the administrative and fiscal agent located in an office or department not a part of local government that has been delegated by the administrative and fiscal agent for implementing pretrial and/or local community-based probation services by memorandum of understanding with the administrative and fiscal agent. Office or department not a part of local government means any Office of the Sheriff; regional jail board or regional jail authority; or Alcohol Safety Action Program (ASAP) that has established a provision for an administrator or a joint board responsible for administering the undertaking pursuant to joint exercise of powers by political subdivisions (§ 15.2-1300).
3. Full-time or part time permanent employees of a qualified non-profit private agency engaged in the administration of justice providing pretrial services prior to the adoption of the Pretrial Services Act and/or local community-based probation services by contract with and as the delegated representative of the administrative and fiscal agent.

III. Limitations of Oath of Office

- A. The taking of oath of office by any local community-based probation or pretrial services officer does not constitute a judicial appointment; qualify the person as an officer of the court; provide the authority for arrest as a conservator of the peace; nor authorize the officer to carry any weapons.
- B. An unsworn officer shall not perform any duties and responsibilities of local community-based probation and/or pretrial services officers as prescribed by law or as identified in the *Minimum Standards*.
- C. A person sworn as an officer of a local or multi-jurisdictional community-based probation or pretrial services agency shall not provide services to any localities other than that for which they are sworn.
- D. Any local community-based probation or pretrial services officer who leaves the employment of the administrative and fiscal agent by which he/she was hired shall surrender his certificate of Oath of Office to the director of the agency.
- E. Any person who was a local community-based probation or pretrial services officer and who is re-hired by the same agency shall take a new Oath of Office.
- F. Any employee of a local community-based probation and/or pretrial agency who is hired by another agency must take a new oath to serve the new administrative and fiscal agent and its participating localities.
- G. The following persons are **not** eligible to take an Oath of Office or perform duties and responsibilities of local community-based probation or pretrial services officers without direct supervision by a sworn officer:
 1. Clerical employees including, but not limited to, secretaries, administrative assistants and any employees providing fiscal, accounting, data entry or like functions

2. Temporary employees
3. Interns and volunteers
4. Persons provided by any employment agency or temporary employment agency who are still under contract or agreement with said agency
5. Persons providing treatment or counseling services through a contract
6. Shift relief workers, unless they are already sworn as full- or part-time permanent local probation or pretrial services officers and are working overtime
7. Other non-classified employees

IV. Requirements for Recording and Reporting Oaths of Office

A. The Oath of Office shall be recorded or provided as follows:

1. The original will be retained by the agency director in the employee's file.
2. A copy will be given to the court in which the judge sits who administered the oath, if required.
3. A copy will be given to the sworn officer.
4. A copy will be given to the administrative and fiscal agent of the agency, if required.
5. The dates that Oaths of Office are taken and terminations of employment will be recorded on the Quarterly Progress Report to the Department on the *Attachment 1, Confidential Staffing Information*.

B. All courts served shall be notified in writing within five days when the employee is terminated or is no longer a sworn officer.