

Affidavit Essentials

(Source: *3 Am Jur 2d Affidavits*)

Definition: An affidavit is a voluntary written statement of fact, sworn to or affirmed by the person making it before a notary (or other person authorized by law to administer oaths and affirmations) and officially certified by the notary under his or her seal of office.

Procedure: An affidavit is valid only when signed in the presence of the notary who administers an oath or affirmation. The affiant must swear to the statement contained in the affidavit, and the fact of his or her swearing or affirming must be certified by the notary.

Required Elements: No particular terminology is required to render a document an affidavit. In order to make an affidavit, the notary, the affiant, and the paper must be present, and there must be something done which amounts to the administration of an oath or affirmation.

- **The Oath or Affirmation:** The notary and affiant must be present together for the oath or affirmation. Thus, a notary's administration of the oath or affirmation over a telephone, rather than in the affiant's presence, does not create a valid affidavit. It is not necessary that the oath or affirmation administered be formal, nor is it necessary that any exact words or specific ceremony be used to constitute a valid administration of an oath or affirmation. It is not essential that the affiant should hold up his hand and swear in order to make his act an oath or affirmation. There must be concurrent action on the part of the affiant and the notary by which the affiant consciously, solemnly takes upon him or herself to be bound by the obligation of an oath or affirmation.
- **The Affiant's Statement:** An affidavit must contain a statement of facts based on the personal knowledge of the affiant. An affidavit must also contain a statement indicating that the person who made it was under oath or affirmation.
- **The Affiant's Signature:** Generally, an affidavit must be signed by the affiant, in order to constitute a formal affidavit. (However, courts have ruled an affidavit valid which was not signed by the affiant, but in which appeared the name of the affiant indicating the person who took an oath or made an affirmation.) The affiant's signature need not be at the end, if it appears in any part and is obviously applicable to the affidavit.
- **The Jurat:** A jurat is generally defined as a certificate added to an affidavit stating when, before whom, and where an oath was taken or affirmation made. A jurat certifies the administration of an oath or affirmation associated with an affidavit, but it is not a required part of an affidavit. The jurat provides one type of evidence that an affidavit was sworn to or affirmed properly, that is, in the presence of someone authorized to administer oaths and affirmations.

Data points:

Affidavit	
1	Venue
	County
	State
2	Date of affidavit
3	Notary's seal of office
4	Signature of notary certifying affidavit
5	Statement of identity, character, title and authority of notary certifying affidavit
	Political subdivision
	Commission expiration date
6	Identification and description of affiant
	Name
	Capacity
	Residence
7	Statement of notary's knowledge of affiant's identity
	Personally known
	Satisfactorily proven
8	Statement of affiant's appearance before notary
9	Statement of facts/affiant's personal knowledge of facts stated
10	Signature of affiant
11	Jurat
	Notary's statement that oath/affirmation was administered
	Notary's statement that affiant signature was witnessed.