

22.01B

An Oath Or Affirmation Was Required

In the [(proceeding) (matter)] in question, an [(oath) (affirmation)] was required.

Committee Note

The issue of whether an oath or affirmation was required is a question of law for the court rather than a question of fact for the jury. *People v. Dyer*, 51 Ill.App.3d 731, 734, 366 N.E.2d 572 (5th Dist. 1977). Though that portion of *Dyer* which holds that materiality is a question of law is no longer good law, the Committee believes that whether an oath or affirmation was required remains a question of law because this issue is governed by statute. The construction of a statute is a question of law. *People v. Smith*, 236 Ill.2d 162, 167, 923 N.E.2d 259 (2010).

A form that only requires an applicant to “certify” the truth of the responses, rather than swear an oath or affirmation, does not support a conviction for perjury. *People v. Matiala*, 2023 IL App (4th) 220387, ¶ 2.