

## Appendix

The proposed modifications (shown with underlining and ~~striketrough~~), are as follows:

### **N.J.S.A. 1:1-2 Words and phrases defined**

Unless it be otherwise expressly provided or there is something in the subject or context repugnant to such construction, the following words and phrases, when used in any statute and in the Revised Statutes, shall have the meaning herein given to them.

[...]

~~Magistrate. The word “magistrate” includes any judge, municipal magistrate or officer or other person having the powers of a committing magistrate.~~

[...]

**Credits:** Amended by L.1948, c. 4, p. 47, § 1; L.1953, c. 4, p. 18, § 1; L.1955, c. 226, p. 878, § 1; L.1960, c. 187, p. 776, § 1, eff. Jan. 18, 1961; L.2015, c. 251, § 1, eff. Jan. 19, 2016.

#### Comment

The term magistrate is archaic and has been removed from the statute.

### **2A:14-19. 10 years; actions on bonds of municipal magistrates**

No action at law brought upon a bond given by any municipal ~~magistrate~~ court judge and his, or her, sureties or by the clerk of any municipal court and his, or her, sureties shall in any way operate against or affect the sureties named in and bound by the bond, unless such action shall be commenced within 10 years next after the date of the bond.

#### Comment

The term magistrate is archaic and has been removed from the statute. The word was replaced with its contemporary counterpart, municipal court judge. Statute was modified to be gender neutral.

### **2A:14-29. Limitation of lien of civil recognizance**

All recognizances of bail made or entered into before any court, or judge ~~or magistrate~~ having civil jurisdiction, upon which no actions or proceedings to enforce or collect the same shall have been prosecuted to final judgment within a period of 6 years after the same shall have been filed and recorded in the clerk’s office, shall no longer be a lien or charge upon or against any real estate of which any principal or surety named in any such recognizance was or shall have been seized at the time of his entering into such recognizance, or at any time thereafter.

Comment

The term magistrate is archaic and has been removed from the statute.

**2A:33-5. Distraint for levying of penalty inflicted or money directed to be paid by law; warrant and sale by judge or magistrate**

Where any judge ~~or magistrate~~ is required or authorized to issue a warrant of distress for the levying of a penalty inflicted, or sum of money directed to be paid by any law, and no mode is provided for the disposal of the distress, the judge ~~or magistrate~~ may order the chattels, to be so distrained, sold and disposed of within the time to be limited in the warrant, which time shall not be less than 4 nor more than 10 days, unless the penalty or sum of money, together with reasonable charges, to be taxed by the judge ~~or magistrate~~, of taking and keeping the distress, be sooner paid.

Reasonable charges of taking, keeping and selling the distress, to be taxed as aforesaid, shall be deducted by the officer making the distress out of moneys arising from the sale, and the overplus, if any, after such charges, and also said penalty or sum of money shall be satisfied and paid, shall be returned on demand to the owner of the chattels so distrained. The officer executing the warrant shall show the same to the person whose chattels are distrained, and give him a copy thereof.

Comment

A distraint is the inchoate right and interest which a landlord has in the property of a tenant located on the demised premises. Upon a tenant's default, a landlord may generally distraint by changing locks and giving notice. Black's Law Dictionary (9th Ed.).

In a commercial setting, a distraint by a constable pursuant to N.J.S. 2A:33-5 may be constitutional with the aid of "judicial surgery."<sup>1</sup> In order to remain constitutional a court must require notice and a pre-deprivation hearing and in instances of self-help hold a post-deprivation hearing.<sup>2</sup> This practice has been criticized as dubious and risky.<sup>3</sup>

The term magistrate is, however, archaic and has been removed from the statute.

**2A:33-22. Seizure of property locked up; breaking and entering**

When property is removed by a tenant and put in any place locked up, fastened or otherwise secured, to prevent the said property from being distrained for arrears of rent, the landlord, first calling to his assistance a constable or peace officer, who shall aid and assist therein, may, in the daytime, break open and enter the place, and distraint the said property for the arrears of rent as he might have done if the said property had been put in an open place.

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<sup>1</sup> HENRY C. WALENTOWICZ ET AL., DISTRAINTS, 12 A N.J. Pract., Real Estate Law and Practice §30:26 (3d ed. 2020).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

If the place where the said property is secured is a dwelling house, oath shall first be made before ~~some a judge or magistrate, of~~ setting forth a reasonable ground to suspect that the said property is therein.

#### **2A:67-4. Prisoner not to be removed except in certain cases**

No person committed to a prison or in the custody of an officer or other person for a criminal or supposed criminal matter shall be removed from such prison or custody into the custody of any other officer or person, except:

- a. By habeas corpus or other legal writ or process; or
- b. Where he is delivered to a constable or other inferior officer in accordance with law; or
- c. Where he is sent by order of a court, judge ~~or magistrate~~ to a workhouse or house of correction; or
- d. Where he is removed to another place, within the county, for his trial or discharge in due course of law; or
- e. In case of sudden fire or infection or other necessity.

#### Comment

The term magistrate is archaic and has been removed from the statute.

#### **2A:152-13. Notice as authority to make complaint; warrants; absence of liability**

The receipt of the communication mentioned in section 2A:152-12 of this title, by any officer named in said section, shall be sufficient warrant and authority for such officer to make a complaint upon information and belief founded thereon, charging that such person, known or unknown, is engaged in such illegal practices and violating the criminal laws of this state as in the communication stated, and any judge ~~or magistrate~~ having jurisdiction to issue criminal process may take and receive such complaint and issue a warrant for the arrest of such person, known or unknown, found upon the premises designated in the communication, and direct that such person be brought before such judge ~~or magistrate~~ to be dealt with as law and justice shall require.

The officer making any complaint hereunder shall not be liable to any action, civil or criminal, by any person taken upon or found in the place or places mentioned in the written communication.

L.1901, c. 173, § 2, p. 367 [C.S. p. 1813, § 219b].

#### Comment

Section 2A:152-13 remains in full force and effect for use, administration and enforcement as heretofore, pending enactment of acts to revise, repeal or to compile in Title 2C, *see* N.J.S. § 2C:98-3.<sup>4</sup> The term magistrate is archaic and has been removed from the statute.

### **2A:155-5. Hearing before magistrate; commitment or discharge**

If an arrest is made in this state by an officer of another state in accordance with the provisions of section 2A:155-4 of this title, he shall, without unnecessary delay, take the person arrested before a ~~neighboring magistrate judge~~, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the ~~magistrate judge~~ determines that the arrest was lawful ~~he~~ the judge shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the ~~governor~~ Governor of this ~~state~~ State, or admit ~~him~~ the person to bail for such purpose. If the ~~magistrate court~~ determines that the arrest was unlawful ~~he~~ it shall discharge the person arrested.

L.1937, c. 94, § 2, p. 229.

#### **Comment**

This statute sets forth what is commonly referred to as New Jersey’s “Fresh Pursuit” Statute.<sup>5</sup> The New Jersey Rules of Court, specifically R. 3:4-4, set forth the procedure for “Proceedings in Arrest Under Uniform Fresh Pursuit Law.” As modified, the language of the statute now reflects the language used in the New Jersey Rules of Court concerning “Fresh Pursuit.”

### **2A:160-11. Demand for extradition; form and contents; affidavit; copy of indictment or information; statement by executive authority of demanding state**

No demand for the extradition of a person charged with crime in another state shall be recognized by the ~~governor~~ Governor unless in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, except in cases arising under section 2A:160-14 of this title, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a ~~magistrate judge~~ there, together with a copy of any warrant which was issued thereon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the ~~magistrate judge~~ must substantially charge the person

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<sup>4</sup> See ROBERT RAMSEY, ALLOCATIONS, 33A N.J. Pract., Criminal Law §53:3 (5th ed. 2019 update).

<sup>5</sup> See *Sorrentino v. Lavalley*, 2016 WL 3460418 \*2 (S.D.N.Y. Jun. 21, 2016); *People v. Nieto*, 192 Misc.2d 537 (Sup. Ct., Bronx Cnty. N.Y. 2002) (citing N.J.S. 2A:155-5 and noting that once arrested a defendant should be turned over to New Jersey Officials for extradition proceedings).

demanding with having committed a crime under the law of that state; and the copy of the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

#### **2A:160-21. Arrest of accused before requisition made; warrant for arrest**

Whenever any person within this state shall be charged on the oath of any credible person before any judge ~~or magistrate~~ of this state with the commission of any crime in any other state, and, except in cases arising under section 2A:160-14 of this title, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge ~~or magistrate~~ in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under said section 2A:160-14, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, and is believed to be in this state, the judge ~~or magistrate~~ shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, ~~magistrate~~ or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Comment

The term magistrate is archaic and has been removed from the statute.

#### **2A:160-22. Arrest of accused without warrant**

The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding 1 year, but when so arrested the accused must be taken before a judge ~~or magistrate~~ with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in section 2A:160-21 of this title; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Comment

The term magistrate is archaic and has been removed from the statute.

#### **2A:160-23. Commitment to jail of person arrested before requisition made, to await requisition; bail**

If from the examination before the judge ~~or magistrate~~ it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 2A:160-14 of this title, that he has fled from justice, the judge ~~or magistrate~~ must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in section 2A:160-24 of this title, or until he shall be legally discharged.

Comment

The term magistrate is archaic and has been removed from the statute.

**2A:160-24. Bail of accused for appearance, when authorized; bond or undertaking; surrender of accused to be arrested on warrant**

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge ~~or magistrate~~ in this state may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he or she deems proper, conditioned for his appearance before him at a time specified in such bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

Comment

The term magistrate is archaic and has been removed from the statute. Statute was modified to be gender neutral.

**2A:160-32. Application to governor for requisition; by whom made; contents; verification of application; execution in duplicate; certified copies of indictment, information and affidavit filed, or complaint to accompany application; copy filed with secretary of state; copy forwarded with requisition**

[...]

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by 2 certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge ~~or magistrate~~, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he or it shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by indorsement thereon, and 1 of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of

conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

[...]

Comment

The term magistrate is archaic and has been removed from the statute

#### **2A:160-26. Forfeiture of bail; arrest of accused without warrant; recovery on bail bond**

If the prisoner is admitted to bail and fails to appear and surrender himself according to the conditions of his bond, the judge ~~or magistrate~~, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

Comment

The term magistrate is archaic and has been removed from the statute.

#### **2A:162-5. Duration of lien, upon any property, of forfeited recognizances not prosecuted to judgment; time limit after effective date for enforcement**

All recognizances of bail made or entered into before any court, judge ~~or magistrate~~ having criminal jurisdiction, which have been or shall be forfeited, but upon which no writ of scire facias or other process to enforce or collect the same shall have been issued and prosecuted to final judgment within a period of 6 years after the same shall have been filed and recorded in the clerk's office, and all recognizances of bail which have not been forfeited, shall, after 6 years from the date of the filing and recording of any such recognizances of bail in the clerk's office, no longer be enforceable as a claim or as a lien or charge upon or against any property of which any principal or surety named in any such recognizance was or shall have been seized at the time of his entering into such recognizance or at any time thereafter; provided that any claim, lien, or charge against personal property affected by any of the provisions of this act may be prosecuted or enforced within 6 months from the effective date hereof.

Comment

The term magistrate is archaic and has been removed from the statute.

#### **2A:166-17. No fees or costs payable to judge or officer receiving salary**

No fees or costs shall be paid by the county treasurer for the services of any judge, ~~magistrate~~ or officer of any criminal court, where such judge, ~~magistrate~~ or officer receives a salary.

L.1898, c. 237, § 106, p. 904, amended by L.1901, c. 88, § 1, p. 201 [C.S. p. 1852, § 106], L.1924, c. 127, § 1, p. 243 [1924 Suppl. § 53-106].

Comment

The term magistrate is archaic and has been removed from the statute.

### **2A:166-18. No fees from parties applying to magistrate for services in criminal cases; payment by county**

In criminal cases no fees shall be demanded from parties applying to ~~magistrates~~ judges or constables for their services.

Comment

The term magistrate is archaic and has been removed from the statute.

### **2A:169-3. Arrest of disorderly person without process**

Whenever an offense is committed in his presence, any constable or police officer shall, and any other person may, apprehend without warrant or process any disorderly person, and take him before any ~~magistrate~~ judge of the county where apprehended.

Comment

When arrest is made without warrant, prisoner must be taken without unnecessary delay before nearest available magistrate, a complaint filed forthwith, and a warrant issued thereon.<sup>6</sup>

The term magistrate is archaic and has been removed from the statute

### **2C:52-10. Service of petition and documents**

a. Until the date that the e-filing system is established by the Administrative Office of the Courts pursuant to section 11 of P.L.2019, c. 269 (C.2C:52-10.1), a copy of each petition, together with a copy of all supporting documents, shall be served pursuant to the rules of court upon the Superintendent of State Police; the Attorney General; the county prosecutor of the county wherein the court is located; the chief of police or other executive head of the police department of the municipality wherein the offense was committed; the chief law enforcement officer of any other law enforcement agency of this State which participated in the arrest of the individual; the superintendent or warden of any institution in which the petitioner was confined; and, if a disposition was made by a municipal court, upon the ~~magistrate~~ judge of that court. Service shall be made within 5 days from the date of the order setting the date for the hearing upon the matter.



b. On and after the date that the e-filing system is established pursuant to section 11 of P.L.2019, c. 269 (C.2C:52-10.1), a copy of each petition, together with a copy of all supporting documents, shall, upon their filing, be served electronically pursuant to the rules of court upon the Superintendent of State Police, the Attorney General, the county prosecutor of the county wherein the court is located, and the county prosecutor of any county in which the petitioner was convicted, using the e-filing system.

Credits: L.1979, c. 178, § 117, eff. Sept. 1, 1979. Amended by L.2019, c. 269, § 10, eff. June 15, 2020.

#### Comment

This statute was amended by L.2019, c.269, § 10, and is scheduled to become effective on June 15, 2020. This amendment added subsection b., which provides for the electronic filing of documents. This amendment, however, did not modify the reference to the term magistrate set forth in subsection a. This term has been deleted from the statute and replaced with the appropriate reference to the municipal court judge.

#### **4:15-5. Powers and duties of special officers**

Special officers so appointed and sworn shall possess, so long as the directors choose to retain them, the powers and authority, on the grounds and within the limits fixed in section 4:15-3 of this title, vested in constables in criminal cases in this state. They may, without process, arrest all persons there found who shall:

- a. Violate any of the laws of this state;
  - b. Conduct themselves in a disorderly manner;
  - c. Disturb or wrongfully interfere with the fair and exhibition or the exhibitors or visitors;
- or
- d. Violate any of the rules or regulations of the association.

Any person so arrested shall be taken, as soon as conveniently may be, before a ~~magistrate~~ judge of the county in which the fair and exhibition is held, there to be dealt with according to law.

L.1896, c. 129, § 2, p. 183 [C.S. p. 2276, § 12].

#### Comment

This statute deals with the powers and duties of special officers who are assigned to patrol stud farms,

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<sup>6</sup> *State v. Ferraro*, 81 N.J. Super. 213 (1963). See also ROBERT RAMSEY, MUNICIPAL COURT PRACTICE, 17A N.J. Pract., §46:9 Police Arrest Powers (3<sup>rd</sup> ed. 2019 update) (generally, a New Jersey law enforcement officer may arrest a person for a petty offense committed in the officer's presence without an arrest warrant).

exhibition grounds, and the lands and premises adjacent thereto.

The term “magistrate” has been deleted from the statute and replaced with the appropriate reference to the judge of the county – a Superior Court Judge.

#### **4:15-9. Powers and duties of special officers**

Persons appointed and sworn as provided in section 4:15-8 of this title shall possess the authority and powers on the stud farm and exhibition grounds, and on the lands and premises adjacent thereto, within the limits named in section 4:15-7 of this title, which constables possess in criminal cases in this state. They may, without process, arrest all persons there found who shall:

- a. Violate any of the laws of this state;
- b. Conduct themselves in a disorderly or immoral manner;
- c. Disturb or wrongfully interfere with the meetings and exhibitions or visitors thereto;
- d. Violate any of the rules and regulations of the owner which are plainly printed and posted in a conspicuous manner about the farm and exhibition grounds.

The persons so arrested shall be taken, as soon as conveniently may be, before a ~~magistrate~~ judge of the county, there to be dealt with according to law.

Credits: L.1886, c. 266, §§ 2, 3, pp. 392, 393 [C.S. p. 2275, §§ 9, 10].

#### Comment

This statute deals with the powers and duties of special officers who are assigned to patrol stud farms, exhibition grounds, and the lands and premises adjacent thereto.

The term “magistrate” has been deleted from the statute and replaced with the appropriate reference to the judge of the county – a Superior Court Judge.

#### **6:5-8. Nonresident involved in accident; execution of power of attorney appointing Secretary of State as agent**

Whenever any collision or accident shall occur on or over the land or waters or in the air spaces of this State and the operator or pilot of any aircraft involved therein shall be a nonresident and not licensed under the laws of this State to operate, pilot or avigate an aircraft, or an aircraft involved in any such collision or accident shall not be registered or licensed under the laws of this State, notwithstanding that such aircraft may be validly licensed and registered under the provisions of the laws, rules and regulations of the United States Government, the ~~magistrate~~

judge, before whom the nonresident operator, pilot or owner of such aircraft shall be brought, shall require such operator, pilot or owner, as a condition to his release on bail or otherwise, to execute a written power of attorney to the Secretary of State appointing the Secretary of State his lawful agent for the acceptance of service of civil process in any civil action arising out of such collision or accident, instituted or to be instituted by any resident of this State against such nonresident, for or on account of any claim, demand or cause of action arising out of such collision or accident. The power of attorney herein required shall, after the execution thereof, be filed with the Secretary of State.

The requirements of this section shall be in addition to, and not in limitation of, any other law concerning the giving of bail or other security.

**Credits:** L.1952, c. 199, p. 711, § 8, eff. May 16, 1952.

Comment

This statute pertains to the service of process upon unlicensed, nonresident operators or pilots of aircraft who are involved in a collision or accident within the State of New Jersey.

The term “magistrate” has been deleted from the statute and replaced with the appropriate reference to a judge.

**19:32-23. Detention of persons arrested**

Upon delivering the person so arrested to the officer in charge of the police station to which he is removed, such officer shall hold and detain the person so arrested until ordered released by the ~~magistrate~~ judge taking the complaint hereinafter provided for or by other process of law.

Comment

The term “magistrate” has been deleted from this election law statute and replaced with the term “judge.”

**19:32-24. Complaint against person arrested; hearing by magistrate**

Upon delivering the person so arrested to the officer in charge of such police station the superintendent or ~~his~~ the chief deputy and assistants, as the case may be, making the arrest, shall forthwith and as soon as may be make and sign before a ~~magistrate~~ judge of the municipality in which the arrest was made a complaint in writing, duly verified, setting forth the particular act for which such person was arrested. Upon the complaint being made, the ~~magistrate~~ judge before whom it is made shall forthwith and as soon as may be cause the person so arrested to be brought before ~~him~~ the judge and proceed on such complaint, as in the case of other persons arrested on a

complaint charging a criminal offense.

Comment

The term “magistrate” has been deleted from this election law statute and replaced with the term “judge.” Statute was modified to be gender neutral.

### **19:32-46. Detention of persons arrested**

Upon delivering the person so arrested to the officer in charge of the police station to which he is removed, such officer shall hold and detain the person so arrested until ordered released by the ~~magistrate~~ judge taking the complaint hereinafter provided for or by other process of law.

**Credits:** L.1947, c. 167, p. 734, § 21.

Comment

The term “magistrate” has been deleted from this election law statute and replaced with the term “judge.”

### **19:32-47. Complaint against person arrested; hearing by magistrate**

Upon delivering the person so arrested to the officer in charge of such police station the superintendent or ~~his~~ the chief deputy and assistants, as the case may be, making the arrest, shall forthwith and as soon as may be make and sign before a ~~magistrate~~ judge of the municipality in which the arrest was made a complaint in writing, duly verified, setting forth the particular act for which such person was arrested. Upon the complaint being made, the ~~magistrate~~ judge before whom it is made shall forthwith and as soon as may be cause the person so arrested to be brought before ~~him~~ the judge and proceed on such complaint, as in the case of other persons arrested on a complaint charging a criminal offense.

**Credits:** L.1947, c. 167, p. 734, § 22.

Comment

The term “magistrate” has been deleted from this election law statute and replaced with the term “judge.” Statute was modified to be gender neutral.

### **23:3-15. Failure to turn over moneys by clerk, warden or magistrate; misdemeanor**

A county or municipal clerk or an agent who fails to turn over any moneys collected for licenses, and a ~~magistrate~~ judge who fails to turn over any moneys collected as a penalty, at the time and in the manner required by law, shall be guilty of a ~~misdemeanor~~ theft as set forth in the New Jersey Code of Criminal Justice, N.J.S. 2C:20-1 et seq.

**Credits:** Amended by L.1947, c. 159, § 8, eff. May 20, 1947; L.1951, c. 226, § 12, eff. Jan. 1, 1952.

Comment

This statute, pertaining to the funds received by municipal employees in conjunction with fish and game has been modified in a manner that replaces the term “magistrate” with the term “judge.” In addition, the statute has been modified consistent with the New Jersey Law Revision’s recommendation set forth in its March 21, 2019, Final Report Addressing the Use of the Term Misdemeanor in the New Jersey Statutes.<sup>7</sup>

**23:3-20. Penalty for violation of article**

(a) A person who at any time alters, disfigures or changes in any manner, or loans or transfers to another, a license or button or tag issued under this article, gives false information or makes any misrepresentation to the clerk or agent to whom application is made for a license hereunder, or who violates any provision of this article for the violation of which a penalty is not herein otherwise provided, shall be liable to a penalty of not less than \$25.00 nor more than \$50.00 for each offense, and upon conviction the license and button or tag issued to him, if any, shall be revoked by the court or ~~magistrate~~ judge before whom the conviction is secured.

(b) The court or ~~magistrate~~ judge shall send the license and button or tag marked “revoked,” to the office of the division, and any license issued to a person whose license has been revoked during the year for which the license was issued shall be void.

(c) A person who shall fail or neglect to perform a duty imposed on him by this article shall be liable to a penalty of \$20.00 for each failure. ~~No penalty fixed by this section shall apply to an offense which is a misdemeanor under this article.~~

**Credits:** Amended by L.1947, c. 159, § 12, eff. May 20, 1945; L.1951, c. 226, § 16, eff. Jan. 1, 1952; L.1975, c. 116, § 5, eff. June 3, 1975.

Comment

This statute, pertaining to fish and game has been modified in a manner that replaces the term “magistrate” with the term “judge.” In addition, the structure of the statute has been modified consistent with the New Jersey Law Revision’s recommendation set forth in its March 21, 2019, Final Report Addressing the Use of the Term Misdemeanor in the New Jersey Statutes.<sup>8</sup>

**23:5-30. Placing carp in public or private waters prohibited; penalty**

No person shall place any kind of carp, or the seed thereof, in any of the public or private waters of this state, under a penalty of not less than two hundred dollars nor more than five

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<sup>7</sup> Final Report from the New Jersey Law Rev. Comm’n Addressing the Use of the Term “Misdemeanor” in the New Jersey Statutes, Appendix 94 (Mar. 21, 2019) (on file with the NJLRC and available at <https://www.njlrc.org/projects/2019/5/30/wills-w5zeb?rq=misdemeanor>).

<sup>8</sup> *Id.*

hundred dollars, or imprisonment in the jail of the county where the offense has been committed or where the conviction is had for not less than thirty days nor more than six months, at the discretion of the court or ~~magistrate~~ judge before whom the conviction is had.

Source: L.1936, c. 235, § 14, p. 731.

#### Comment

This statute, pertaining to fish and game has been modified in a manner that replaces the term “magistrate” with the term “judge.”

### **23:13-1. Interstate Wildlife Violator Compact**

The State of New Jersey enacts and enters into the Interstate Wildlife Violator Compact with all other jurisdictions that legally join in the compact in the form substantially as follows:

[...]

#### Article II. Definitions.

2. As used in this compact and sections 2 through 6 of this act:

“Court” means a court of law, including but not limited to ~~magistrate’s court, justice of the peace court,~~ municipal court, and the State Superior Court.

[...]

**Credits:** L.2016, c. 101, § 1, eff. Jan. 9, 2017.

#### Comment

This statute, pertaining to fish and game has been modified in a manner to eliminate references to magistrate’s court and justice of the peace court which no longer exist in the State of New Jersey.

### **24:1-2. Certain books as evidence**

The books printed and published and known as the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them, or any of the printed copies of such books, shall in any action or proceeding brought under any of the provisions of this subtitle be received as evidence of the contents thereof, in any court or before any ~~magistrate~~ judge.

The court ~~or magistrate~~ may determine whether the books offered as such were so printed and published, either from inspection or the knowledge of the judge ~~magistrate~~, or from testimony.

No judgment shall be reversed because of the admission of such books unless it be shown that the books so offered in evidence were not, in fact, printed and published as such official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary.

**Credits:** Amended by L.1939, c. 320, p. 770, § 2, eff. Jan. 1, 1940; L.1953, c. 24, p. 454, § 1, eff. March 19, 1953.

#### Comment

This statute, pertaining to food and drugs has been modified in a manner to eliminate references to the term magistrate. Regarding the admission of certain books as evidence, *see* New Jersey Rules of Evidence, Rule 902(e) as it pertains to the self-authentication of official publications.

### **27:19-36.3. Appointment of bridge police; authority; procedure on arrest**

Notwithstanding any of the provisions of the article of which this act is a supplement,<sup>1</sup> any county bridge commission created pursuant to said article may appoint policemen and all policemen so appointed are hereby authorized and empowered to make arrests on view and without warrant on Sunday or any other day for crimes, misdemeanors and offenses of any character, or for disorder or breach of the peace or violations of any rules and regulations adopted by such county bridge commissions, committed within the jurisdiction of this State on any bridge owned by or under the control of such county bridge commission, or at the approaches thereof, or on any other property owned by or under the control of such commission. In addition, such policemen shall have all the powers conferred by law on police officers or constables in the enforcement of laws in this State and the apprehension of violators.

Any person so arrested shall be conducted by the officer to a municipal ~~magistrate~~ judge of the political subdivision in which the arrest is made or, if there is no such available ~~magistrate~~ judge, to ~~the nearest available magistrate~~ a judge in any other political subdivision.

Any policeman may, instead of arresting an offender as herein provided, serve upon him a summons.

**Credits:** L.1960, c. 168, p. 709, § 1.

#### Comment

This statute has been modified in a manner to substitute the word “judge” for the term magistrate.

### **30:8-22. Persons committed to jails to be delivered to wardens**

All persons committed to a county jail which has been taken over by the board of chosen freeholders pursuant to section 30:8-19 of this title, according to law, by any committing ~~magistrate~~ judge, shall be delivered to the keeper or warden of such jail and ~~by him~~ held in custody until discharged by due process of law.

#### Comment

The New Jersey Legislature has enacted statutes that address the management and operation of the county detention facilities.<sup>9</sup> A county board of chosen freeholders is authorized to take over the responsibility for the confinement of inmates.<sup>10</sup> Pursuant to this statute, the freeholders must appoint a “keeper” or “warden” to be responsible for the confinement of inmates.<sup>11</sup> Statute was modified to be gender neutral.

### **30:8-33. Prisoners who may be sent to workhouse; hard labor**

In each county having a workhouse every person sentenced to imprisonment at hard labor for not more than six months shall be delivered by the sheriff or other proper officer of the county in which the conviction was had to the master of the workhouse, together with a copy of the sentence of the court, certified under the hand and seal of the clerk of the court or if there be no clerk, then under the hand and seal of the ~~magistrate~~ or judge imposing the sentence, and shall be there received and safely kept to hard labor, agreeably to such sentence, by the master of the workhouse for the term of his sentence and for such further time as the costs of prosecution and fine, if any, shall remain unpaid, unless the prisoner be sooner discharged in due course of law.

This section shall not apply to an offender whose sentence shall be imprisonment or the payment of a fine, or imprisonment and the payment of a fine, without the addition of hard labor in either case.

**Credits:** Amended by L.1953, c. 29, § 54, eff. March 19, 1953.

#### Comment

This statute has been modified to eliminate the term magistrate.

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<sup>9</sup> N.J.S. 30:8-1 to -69.

<sup>10</sup> N.J.S. 30:8-19.

<sup>11</sup> See *Essex Cnty. Corr. Officers PBA Local No. 382 v. Cnty. of Essex*, 439 N.J. Super. 107, 119 (App. Div. 2014).



### **30:9-12.17. Contents of resolution; board of managers**

Any such resolution may provide for the appointment of a board of managers for such institution or may provide for the management, control and operation of such institution by the board of managers of the county hospital. Where a separate and distinct board of managers for any such institution is provided for, the resolution shall specify the number of managers and their terms of office and may include, as ex-officio members, the ~~magistrates~~ judges or some of them, of the municipal courts situated in the county.

**Credits:** L.1956, c. 213, § 2, eff. Jan. 9, 1957.

#### Comment

This statute has been modified to eliminate the term magistrate.

### **30:9-12.21. Commitment upon application after notice and hearing**

Commitments to the said institution may also be made by any such judge ~~or magistrate~~ upon a determination, after notice and hearing, that a person is suffering from acute alcoholism. Application for such a commitment may be made to the said court or judge by a person having an interest therein by reason of relationship or marriage or by a police officer, sheriff, municipal or county director of welfare or person charged with the care and relief of the poor where the person charged as suffering from acute alcoholism may reside. Every such application shall be supported by a certificate in writing, under oath, executed by 2 physicians who are permanent residents and duly licensed to practice medicine in this State. Each such certificate shall set forth the date of the making of the examination which shall be within 10 days of the date of the making of the application to the said judge ~~or magistrate~~ and shall set forth the facts and circumstances on which the opinions of such physicians are based and shall include a precise personal description sufficient to identify the person so examined and of the facts relating thereto and shall further certify that the condition of the person examined is such as to require care and treatment in an institution for acute alcoholics. Every such application shall be heard in a summary manner, without a jury, and the said judge ~~or magistrate~~ shall, by order, fix the time for the hearing which shall be not less than 10 days after the service of a notice of hearing upon the person so charged. The person charged shall be entitled to counsel and any order of commitment made upon such application shall be subject to review by the Superior Court in a proceeding in lieu of prerogative writ. The judge ~~or magistrate~~ may require the testimony at the hearing to be taken and transcribed by a court reporter and the expense thereof shall be paid by the county treasurer of the county, on order of the board of chosen freeholders, in the same manner as other court expenses chargeable to a county are paid. In connection with any such commitment the judge ~~or magistrate~~ shall determine the indigency or nonindigency of the person committed and make an appropriate order for the payment to the institution of the cost of maintaining the person

committed in such institution. Pending any such application the judge ~~or magistrate~~ may order the temporary detention of the person charged to be suffering from acute alcoholism in such institution for observation and treatment where it appears that such temporary detention is needed for the welfare and safety of the said person. No commitment or temporary commitment upon any such application shall continue for more than 90 days and the commitment may be terminated sooner if the judge ~~or magistrate~~ shall so order, upon application of the board of managers, and the certificate of a physician on the staff of the said institution that maximum treatment has been given to the person committed.

**Credits:** L.1956, c. 213, § 6, eff. Jan. 9, 1957.

Comment

This statute has been modified to eliminate the term magistrate.

**32:2-25. Arrests without warrant; additional powers**

Members of the police force appointed by the port authority may arrest on view, and without warrant, and conduct, without unnecessary delay, before the nearest magistrate a judge of the municipality in which the arrest is made, or a magistrate of any neighboring municipality, any person violating, within the jurisdiction of this state, any order, rule or regulation of the port authority for the regulation and control of highway traffic on any bridge or in any tunnel owned or operated by it or under its jurisdiction or control or on any of the entrance or exit plazas or approaches adjacent or appurtenant thereto, including, but not limited to, rules and regulations regarding the payment of tolls. In addition, the members of such police force shall have all the powers conferred by law on police officers or constables in the enforcement of laws of this state and the apprehension of violators thereof.

Comment

This statute has been modified to eliminate the term magistrate. The proposed modifications are based upon the language found in the New Jersey Rules of Court, specifically, R. 3:4-4.

**32:4-6. Police officers; appointment, oath and compensation; powers and authority; procedure upon issuance of summons, apprehension or arrest; rules and regulations of authority; violations; penalties**

The Delaware River Port Authority, a body corporate and politic, functioning under the legislation enacted by the Commonwealth of Pennsylvania and the State of New Jersey, and the express consent of the Congress of the United States, and its wholly-owned subsidiary corporations through which it is effectuating its authorized purposes, shall have the power and

authority to appoint such number of police officers as may be found necessary to keep in safety and preserve order upon such bridges and tunnels and approaches thereto, and upon the rapid transit systems, ferries, facilities and other property as the Delaware River Port Authority or subsidiary corporations do or may hereafter own, lease or operate; to administer to the police officers an oath or affirmation faithfully to perform the duties of their respective positions or offices; and to provide for the payment of the police officers from the tolls, fares, charges and other revenue of the Delaware River Port Authority or subsidiary corporations. The police officers so appointed shall have the power and authority to make arrests for any crimes, misdemeanors, and the offenses committed under the laws of the State of New Jersey or the Commonwealth of Pennsylvania, upon said bridges or within said tunnels or approaches thereto, on the rapid transit systems, ferries, facilities or other property owned, leased or operated by the Delaware River Port Authority or a subsidiary corporation, for disorder or breach of the peace, or for violations of any lawful regulation which may be or may heretofore have been adopted by the Delaware River Port Authority or subsidiary corporations. Police officers shall be further authorized and empowered to make arrests or issue summonses for evasion or attempts to evade the payment of tolls, fares or other charges which may be fixed or may have been fixed for the use of a bridge, tunnel, rapid transit system, or ferry, facility or other property owned, leased or operated by the Delaware River Port Authority or a subsidiary corporation. In addition, while acting within any other areas of the port district, police officers appointed by the Delaware River Port Authority shall have all of the powers, including the right to carry firearms while on duty, and all of the immunities conferred by law on police officers or municipal police officers in the enforcement of the laws of the State of New Jersey and the Commonwealth of Pennsylvania; provided that no police officer shall be so empowered unless the officer has satisfied all the training and requalification requirements of section 2 of this amendatory and supplementary act.<sup>1</sup> To pass over any part of said bridges or through said tunnels and approaches thereto in any vehicle for which tolls shall be collectible, or for any person or vehicle to use the rapid transit systems or ferries or other facilities or property without passing through the toll gates or paying such tolls, fares or charges, shall constitute such evasion and shall subject the person so evading or attempting to evade such payment to arrest or receipt of a summons as aforesaid. Any such summons shall direct such person to appear before any proper judicial officer as defined in this section at such time as the summons shall direct. Upon the return of such summons or upon the apprehension or arrest of any person or persons for any of the other foregoing reasons, the offender may be taken before any proper judicial officer of the Commonwealth of Pennsylvania or of the State of New Jersey, without respect to the portion of the bridge, tunnel, ferry facility, rapid transit system, facilities or other property upon or within which such offense may have been committed or attempted or such offender arrested, and thereupon such judicial officer shall have the power and authority to punish such offender as hereinafter provided. The Delaware River Port Authority and its wholly-owned subsidiary corporations through which it is effectuating its authorized purposes shall have the power to adopt such rules and regulations as they may respectively deem expedient for the proper government of said bridges, tunnels,

approaches thereto, rapid transit systems, ferries, facilities or other property and for the preservation of good order, safe traffic, and proper conduct thereon or therein. For any violation of any of the foregoing provisions of this act or of any rule or regulation adopted by the Delaware River Port Authority, or its said subsidiary corporations, or for any evasion or attempt to evade payment of tolls, fares or charges, the offender or offenders shall be subject to a fine or penalty of not less than \$10.00 or more than \$25.00, together with costs, to be adjudged by the proper judicial officer of the city and county of Philadelphia or other proper judicial officer of the Commonwealth of Pennsylvania or of the State of New Jersey before whom such offender or offenders may be brought; and on default of payment of such fine or penalty, then to imprisonment of not less than 10 days or more than 30 days in the place of incarceration decreed by ~~said magistrate~~ judge or other judicial officer; and upon conviction of any subsequent offense, shall be subject to a fine or penalty of not less than \$25.00 or more than \$50.00, together with costs, or to imprisonment of not less than 30 days or more than 60 days, or both, at the discretion of the ~~said magistrate~~ judge or other judicial officer.

**Credits:** L.1957, c. 35, p. 64, § 1. Amended L.1969, c. 290, § 1; L.1975, c. 348, § 1; L.1986, c. 209, § 1.

<sup>1</sup> Footnote N.J.S. 32:4-6.1

#### Comment

This statute has been modified to eliminate the term magistrate. This anachronistic term has been replaced with the word “judge.”

### **32:10-2. Authority of bridge police; disposition of person arrested**

All policemen appointed by the Delaware River Joint Toll Bridge Commission when in uniform are hereby authorized and empowered to make arrest on view and without warrant on Sunday or any other day, for crimes, misdemeanors, and offenses of any character or for disorder, or breach of the peace or violations of any rules and regulations adopted by the Delaware River Joint Toll Bridge Commission, committed within the jurisdiction of this State on any bridge owned by or under the control of the said Delaware River Joint Toll Bridge Commission or on the approaches thereto or on any other property owned by or under the control of such commission. In addition such policemen shall have all the powers conferred by law on police officers or constables in the enforcement of laws of this State and the apprehension of violators.

Any person so arrested shall be conducted by the officer to the ~~nearest available alderman, justice of the peace or magistrate~~ a judge of the political subdivision in which the arrest is made or, if there is no such official available, to ~~the nearest available alderman, justice of the peace or magistrate~~ a judge of any adjoining political subdivision.

**Credits:** Amended by L.1945, c. 198, p. 683, § 1.

Comment

This statute has been modified to eliminate the terms “alderman”, “justice of the peace”, and “magistrate.” These anachronistic terms have been replaced with the word “judge.”

**32:26-13. Violation of regulations adopted pursuant to compact; penalty**

Any person who shall violate any rule, regulation or code adopted by the Director of the Division of Motor Vehicles pursuant to the Vehicle Equipment Safety Compact shall, upon conviction, suffer and pay a penalty not exceeding \$50.00, or suffer imprisonment for a term not exceeding 30 days, or by both such fine and imprisonment, in the discretion of the ~~magistrate~~ judge before whom such conviction is had.

**Credits:** L.1964, c. 54, § 4.

Comment

This statute has been modified to eliminate the term magistrate. This anachronistic term has been replaced with the word “judge.”

**33:1-1. Definitions**

For the purpose of this chapter, the following words and terms shall be deemed to have the meanings herein given to them:

[...]

~~l. “Magistrate.” The Superior Court or municipal court.~~

[...]

**Credits:** Amended by L.1953, c. 32, p. 571, § 1, eff. March 19, 1953; L. 1985, c. 157, § 1, eff. April 26, 1985; L.1991, c. 91, § 342, eff. April 9, 1991; L.1997, c. 8, § 1, eff. Jan. 24, 1997; L.1999, c. 356, § 1; L.2000, c. 83, § 5, eff. Aug. 14, 2000; L.2001, c. 416, § 1, eff. Jan. 8, 2002; L.2015, c. 137, § 1, eff. Nov. 9, 2015.

Comment

This statute has been modified to eliminate the term magistrate.

**33:1-56. Issuing search warrant; private dwellings**

Any ~~magistrate~~ judge, hereinafter termed the “issuing ~~magistrate~~ judge”, may issue a

search warrant in the manner hereinafter provided, to search any premises, building, vehicle or place whatsoever containing, or believed upon probable cause, to contain unlawful property; but no search warrant shall issue to search any private dwelling, occupied exclusively as such, unless there is probable cause to believe it is being used for, or in connection with, unlawful alcoholic beverage activity and provided that such use be evidenced by oath of some person, on his own knowledge.

Comment

The proposed modification to this statute suggests the elimination of the term magistrate.

**33:1-57. Prerequisites to issuance of search warrant; contents; service**

A search warrant shall only issue after (1) proof under oath, which may be by written affidavit or deposition, has been produced before the issuing ~~magistrate~~ judge setting forth facts tending to establish the grounds of the application, or probable cause for believing that such grounds exist, and (2) naming or describing the person or describing the premises, building, vehicle or other place to be searched.

If the issuing ~~magistrate~~ judge is satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, he or she must issue a search warrant, signed by him with the title of his office, to any officer, or officers, stating the particular grounds, or probable cause, for its issuance, and the name or names of the person or persons sworn in support thereof, and commanding him forthwith to search the person, or the premises, building, vehicle or place to be searched.

A search warrant shall be served by the officer, or any of the officers, to whom the same is directed, but by no other person excepting in aid of said officer, he being present and acting in its execution.

Comment

The proposed modification to this statute suggests the elimination of the term magistrate. Statute was modified to be gender neutral.

**33:1-59. Service of warrant in nighttime**

No search warrant shall be served in the nighttime except for special cause shown to the satisfaction of the issuing ~~magistrate~~ judge and upon insertion in the warrant of a direction that it may be served in the nighttime.

Comment

The proposed modification to this statute suggests the elimination of the term magistrate.

### **33:1-60. Execution and return of warrant; time limit**

Every search warrant shall be executed and returned to the issuing ~~magistrate~~ judge within forty-eight hours after its issuance, after which time, unless executed, it shall be void.

Comment

The proposed modification to this statute suggests the elimination of the term magistrate.

### **33:1-61. Receipt for and inventory of property seized**

Any officer who shall seize any property under a search warrant shall give a copy of the warrant, together with an itemized receipt for the property, to the person from whom it was taken or in whose possession it was found or, in the absence of any person, such officer shall leave said copy and receipt in the place where he found the property. The officer who executes a search warrant shall return the same to the issuing ~~magistrate~~ judge, together with a written inventory of the property taken, made in the presence of at least one credible person other than the officer. The ~~magistrate~~ judge shall, upon request, exhibit the inventory to any person claiming the property and to the applicant for the warrant and allow copies to be made thereof.

Comment

The proposed modification to this statute suggests the elimination of the term magistrate.

### **33:1-62. Return of illegally seized property**

In case any person shall be deprived of any property, or the possession of any property, under color of any search warrant, except substantially in accordance with the procedure herein set forth, the issuing ~~magistrate~~ judge, upon timely application therefor, shall require the return of said property, except such property as shall be proven beyond a reasonable doubt to be unlawful property.

Comment

The proposed modification to this statute suggests the elimination of the term magistrate.

### **33:1-71. Officers to use diligence; arrests**

To the end that local police and other enforcing agencies shall enforce this chapter in the interest of economy and effective control, all officers shall use all due diligence to detect violations of this chapter and shall apprehend the offenders and make a proper complaint before a ~~magistrate~~ judge. Arrests may be made as in other cases of misdemeanors.

Comment

The proposed modification to this statute suggests the elimination of the term magistrate.

### **37:1-13. Persons authorized to solemnize marriages or civil unions**

#### **a. Authorization to solemnize marriages and civil unions.**

Each judge of the United States Court of Appeals for the Third Circuit, each judge of a federal district court, United States magistrate, judge of a municipal court, judge of the Superior Court, judge of the Tax Court, administrative law judge, retired judge of the Superior Court or Tax Court, retired administrative law judge, or judge of the Superior Court or Tax Court, the former County Court, the former County Juvenile and Domestic Relations Court, or the former County District Court who has resigned in good standing, surrogate of any county, county clerk, and any mayor or former mayor not currently serving on the municipal governing body or the deputy mayor when authorized by the mayor, or chairman of any township committee or village president of this State, every member of the clergy of every religion, and any civil celebrant who is certified by the Secretary of State to solemnize marriages or civil unions as set forth in subsection b. of this section, are hereby authorized to solemnize marriages or civil unions between such persons as may lawfully enter into the matrimonial relation or civil union; and every religious society, institution or organization in this State may join together in marriage or civil union such persons according to the rules and customs of the society, institution or organization.

Comment

The reference to the term “magistrate” pertains to a “United States Magistrate” and is considered a necessary reference that should not be eliminated from this statute.

#### **37:1-13.1. Marriages solemnized by municipal magistrate or magistrate of municipal court; validation**

All marriages heretofore solemnized by any ~~municipal magistrate or magistrate~~ judge of the municipal court who was not at the time of such solemnization authorized to solemnize marriages shall, if otherwise valid, be as valid as if same had been solemnized by a person authorized to solemnize marriages.

**Credits:** L.1949, c. 7, p. 31, § 2, eff. March 29, 1949.



## Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term judge.

### **39:1-1. Definitions**

As used in this subtitle, unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

[...]

~~“Magistrate” means any municipal court and the Superior Court, and any officer having the powers of a committing magistrate and the chief administrator.~~

[...]

### **Credits**

Amended by L.1951, c. 25, § 1; L.1953, c. 36, § 1; L.1955, c. 8, § 1, eff. March 1, 1956; L.1956, c. 132, § 1; L.1965, c. 226, § 1, eff. Jan. 10, 1966; L.1967, c. 238, § 1, eff. Jan. 1, 1968; L.1968, c. 439, § 1; L.1974, c. 162, § 1, eff. Dec. 2, 1974; L.1975, c. 250, § 1, eff. Oct. 31, 1975; L.1977, c. 267, § 1; L.1981, c. 139, § 1; L.1981, c. 413, § 7, eff. Jan. 7, 1982; L.1982, c. 87, § 1, eff. July 23, 1982; L.1984, c. 33, § 1, eff. May 19, 1984; L.1992, c. 32, § 14, eff. June 30, 1992; L.1993, c. 12, § 1, eff. Jan. 15, 1993; L.1993, c. 125, § 1; L.1993, c. 315, § 1, eff. Dec. 23, 1993; L.1995, c. 397, § 1, eff. Jan. 10, 1996; L.2001, c. 416, § 3, eff. Jan. 8, 2002; L.2003, c. 13, § 36; L.2005, c. 147, § 1; L.2005, c. 158, § 5, eff. July 19, 2005; L.2005, c. 159, § 1, eff. July 19, 2005; L.2005, c. 273, § 1, eff. April 6, 2006; L.2009, c. 107, § 1, eff. Aug. 6, 2009; L.2016, c. 35, § 1, eff. Aug. 31, 2016; L.2019, c. 121, § 1, eff. May 13, 2019.

## Comment

The proposed modification to this statute suggests the elimination of the term magistrate.

### **39:3-79.2. Violations**

Any person who shall violate any of the provisions of this act shall, upon conviction, suffer and pay a penalty not exceeding fifty dollars (\$50.00), or suffer imprisonment for a term not exceeding thirty days, or by both such fine and imprisonment, in the discretion of the ~~magistrate~~ judge before whom such conviction is had.

**Credits:** L.1952, c. 343, p. 1123, § 2.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term judge.

**39:4-14.3. Motorized bicycles; limitations on use; age of operator; license to operate; issuance; examination; learner's permit; fee; possession; exhibit on request; violations; fine; applicable traffic regulations**

[...]

e. The valid driver's license, the insurance identification card, and the registration certificate shall be in the possession of the operator at all times when he is operating a motorized bicycle with motor engaged on the highways of this State. The operator shall exhibit his driver's license when requested to do so by any police officer or ~~magistrate~~ judge, while in the performance of the duties of his office and shall write his name in the presence of the officer, so that the officer may thereby determine the identity of the licensee and at the same time determine the correctness of the registration certificate, as it relates to the registration number and number plates of the motorized bicycle for which it was issued and the correctness of the evidence of a policy of insurance, as it relates to the coverage of the motorized bicycle for which it was issued. Any person violating this subsection shall be subject to a fine not exceeding \$50.00.

If a person charged with a violation of this subsection can exhibit his valid driver's license, insurance identification card, and registration certificate, which were valid on the day he was charged, to the judge of the municipal court before whom he is summoned to answer to the charge, the judge may dismiss the charge; however, the judge may impose court costs.

**Credits:** L.1975, c. 250, § 2. Amended by L.1977, c. 267, § 2; L.1983, c. 16, § 1; L.1983, c. 105, § 7; [L.2003, c. 13, § 49](#) (contingent effective date).

Comment

The second paragraph of subsection e. provides that a person charged with a violation of this section may present a valid driver's license, insurance card or registration certificate to the judge of the municipal court before whom he is summoned. Thus, the proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term judge.

**39:4-56.2. Violations; penalties**

Any person who has been convicted of a violation of this act shall be subject, for a first offense, to a fine of not less than \$200.00 nor more than \$500.00 and shall have his license to operate a motor vehicle suspended for a period of not less than 1 year nor more than 5 years. For

a subsequent violation, he shall be fined not less than \$500.00 nor more than \$1,000.00 and shall have his license to operate a motor vehicle suspended for 5 years from the date of his conviction. In fixing the penalty to be imposed, the ~~magistrate judge~~ shall give consideration to the hazard to the public safety and the public inconvenience created by the conduct of such person.

**Credits:** L.1964, c. 18, § 2.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term judge.

### **39:4-201. Resolutions or ordinances regulating traffic on county roads; notice; penalties**

Effective: July 21, 2017

Except as otherwise provided in [R.S.39:4-8](#), no governing body of any county in this State may adopt resolutions, ordinances, or regulations on a matter covered by or which alters or in any way nullifies the provisions of this chapter or of any supplement thereto, except that, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for streets and highways, ordinances, resolutions, or regulations may be passed by a governing body for the supervision and regulation of traffic on any county roads of the county upon the subject matter and within the limitations prescribed in [R.S.39:4-197](#), and the governing body may prescribe penalties for violations of the resolutions, ordinances, or regulations; provided, however, that a fine of not less than \$50 be imposed upon the violator of an ordinance, resolution, or regulation, as the case may be, establishing parking spaces for persons with disabilities.

Matters pertaining to the supervision and regulation of traffic, to be established by ordinance, resolution, or regulation pursuant to R.S.39:4-197, shall in counties operating under the “Optional County Charter Law,” P.L.1972, c. 154 (C.40:41A-1 et seq.) be established by ordinance.

No ordinance, resolution, or regulation adopted pursuant to this section shall be effective unless due notice to the public is given as provided in R.S.39:4-198.

The penalties may be enforced by the proper method of procedure before a ~~magistrate judge~~. In default of the payment of the penalty, the ~~magistrate judge~~ may commit the offender to the county jail for a period not exceeding five days.

**Credits:** Amended by L.1951, c. 23, p. 118, § 113; L.1980, c. 143, § 2, eff. Nov. 12, 1980; L.1983, c. 227, § 5, eff. June 27, 1983; L.2008, c. 110, § 3, eff. Dec. 4, 2008; L.2017, c. 131, § 166, eff. July 21, 2017.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term judge.

**39:4-210. Jurisdiction of offenses; disposition of fines**

Every ~~magistrate~~ judge and every court having jurisdiction of criminal offenses and the violations of public laws committed in the municipality in which such grounds are located shall have jurisdiction to hear and determine violations of the said regulations to be made by the said division under the provisions of this act and to fix, impose and enforce payment of fines therefor. All such fines shall be for the use and benefit of the State of New Jersey.

**Credits:** L.1950, c. 16, p. 43, § 3. Amended by L.1956, c. 47, p. 96, § 2.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term judge.

**39:5-2. Judicial powers of director; holding court; notice to defendants; fees and costs; appeal**

The director shall have the same powers as are conferred by this subtitle on a ~~magistrate~~ municipal court judge.

In considering violations of this subtitle, the director may hold court in any municipality in the State, upon five days' notice given to the defendants summoned to appear ~~before him~~ and shall conduct the proceedings in compliance with, insofar as they are applicable, the rules of the Supreme Court governing municipal courts. The fees and costs shall be the same as in a municipal court. Appeals from a court held by the director shall, in the manner provided for an appeal from a municipal court, be taken to the Superior Court.

**Credits:** Amended by L.1939, c. 216, p. 614, § 1, eff. July 12, 1939; L.1953, c. 36, p. 619, § 5; [L.1991, c. 91, § 371, eff. April 9, 1991](#).

Comment

This statute permits the director to hold court in any municipality. The director must comply with the rules of the Supreme Court governing municipal courts. The fees are the same as those in a municipal court. Appeals are to be taken to the Superior Court in the same manner provided for an appeal from a municipal court. Thus, the proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term municipal court judge. Statute was modified to be gender neutral.

### **39:5-6. Performance of ministerial acts**

All acts, whether in connection with the taking of complaints, issuing of process, return thereof, taking of bail for appearance or committing to custody for failure to deposit such bail and all proceedings preliminary to trial, including the arraignment, taking of plea and postponement of trial and all ministerial acts and proceedings subsequent to trial, may be performed by the clerk or deputy clerk of a ~~magistrate~~ municipal court, and the jurisdiction so to do with respect to a violation of this subtitle is hereby conferred.

**Credits:** Amended by L.1952, c. 288, p. 975, § 1.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with municipal court.

### **39:5-7. Suspension of sentence; probation**

In any proceeding instituted pursuant to the provisions of this subtitle, except where a mandatory penalty is fixed herein, the ~~magistrate~~ judge may suspend the imposition or execution of sentence, and may also place the defendant on probation under the supervision of the chief probation officer of the county for a period of not less than six months nor more than one year. The probation shall be effected and administered pursuant to the provisions of [sections 2A:168-1 to 2A:168-13 of the New Jersey Statutes](#).<sup>1</sup>

**Credits:** Amended by L.1953, c. 36, p. 620, § 9.

Footnotes: N.J.S.A. §§ 2A:168-1 to 2A:168-4 repealed. See, N.J.S.A. §§ 2C:44-1, 2C:44-6, 2C:45-1 to 2C:45-4, 2C:46-1.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with municipal court.

### **39:5-9. Forfeiture of bond or cash deposit; disposition of moneys**

A bail bond, if forfeited, may be enforced by the director, and any cash deposit in lieu of bond, if forfeited, shall be paid to the director by the ~~magistrate~~ court with whom it was deposited; provided, that such forfeiture is in a proceeding instituted by the director, or a member of his staff, or by the State Police, or an inspector of the Public Utility Commission, or a law enforcement officer of any other State agency. The director shall dispose of the proceeds of said forfeiture in the manner provided by section 39:5-40 of this Title and the proceeds of forfeitures

in a proceeding instituted by a local officer shall be forwarded by the ~~magistrate court~~ to the proper financial officer of the county, wherein they were collected, to be used by the county as a fund for road repairs therein; provided, however, that the ~~magistrate court~~ may first deduct costs and fees from forfeited bail in an amount not to exceed the amount of the costs and fees authorized by section 22A:3-4 of the New Jersey Statutes, and pay the same to the municipal treasurer.

**Credits:** Amended by L.1942, c. 334, p. 1179, § 2; L.1953, c. 36, p. 621, § 11; L.1965, c. 230, § 1, eff. Jan. 10, 1966.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term “court.” Since both the Superior and Municipal Courts can collect these funds the proposed modification referring to the entity, not the judge seemed appropriate.

**39:5-27. License exhibited to magistrate upon arrest**

Any driver arrested for a violation of any provision of this subtitle shall, on demand of the ~~magistrate judge~~ hearing the complaint against him, produce his license for inspection. If he fails to produce his license or to give satisfactory excuse for its nonproduction, he shall, in addition to any other penalties imposed by the ~~magistrate judge~~, be subject to a fine of not more than twenty-five dollars.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

**39:5-28. Validity, service and effect of summons or warrant and arrest thereon in county other than where issued**

A summons or warrant issued by a ~~magistrate judge~~ under this chapter shall be valid throughout the State. An officer who may serve the summons or warrant and make arrest on the warrant in the county in which it was issued may also serve the summons or warrant and make arrest on the warrant in any county of the State.

**Credits:** Amended by L.1953, c. 36, p. 623, § 28.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

### **39:5-31. Revocation of driver's license by director or magistrate**

The director or any ~~magistrate~~ judge before whom any hearing under this subtitle is had may revoke the license of any person to drive a motor vehicle, when such person shall have been guilty of such willful violation of any of the provisions of this subtitle as shall, in the discretion of the ~~magistrate~~ judge, justify such revocation.

**Credits:** Amended by L.1953, c. 36, p. 624, § 30, eff. March 19, 1953.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

### **39:7-7. Power of attorney constituting director agent for service condition precedent to release on bail**

Whenever any collision or accident shall occur in this State and the driver of any motor vehicle involved therein shall be a non-resident and not licensed under the laws of this State to operate a motor vehicle, or a motor vehicle involved in any such collision or accident shall not be registered or licensed under the laws of this State, the ~~magistrate~~ judge before whom the nonresident owner or operator of such motor vehicle shall be brought shall require such nonresident owner or operator, as a condition to his release on bail or otherwise, to execute a written power of attorney to the director, appointing such director his lawful agent for the acceptance of service of process in any civil action instituted or to be instituted by any resident of this State against such nonresident for or on account of any claim, demand or cause of action arising out of such collision or accident. The power of attorney herein required shall be upon a form prepared and furnished to recorders and other committing ~~magistrates~~ judges by the director and shall, after the execution thereof, be filed with the director.

The requirements of this section shall be in addition to, and not in limitation of any other law concerning the giving of bail or other security.

**Credits:** Amended by L.1949, c. 190, p. 638, § 5.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

### **39:12-12. Violations; punishment**

A person who violates any of the provisions of this act shall be subject, for a first offense, to a fine of not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars

(\$250.00) or imprisonment for a term of not less than ten days or more than thirty days, or both, in the discretion of the ~~magistrate~~ judge. For a subsequent violation, he shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), or imprisonment for a period of not less than thirty days or more than three months, or both, in the discretion of the ~~magistrate~~ judge.

**Credits:** L.1951, c. 216, p. 779, § 12.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

### **40:24-9. Court defined; jurisdiction**

The word “court” as used in this chapter means and includes the Superior Court, municipal court and any judge having the powers of a committing ~~magistrate~~ judge; and jurisdiction for the purpose mentioned herein is hereby conferred upon said courts and judges respectively.

**Credits:** Amended by L.1953, c. 37, p. 644, § 45, eff. March 19, 1953; L.1991, c. 91, § 379, eff. April 9, 1991.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

### **40:37-203. Park police; powers of arrest**

The members and officers of the park police may arrest on view and without warrant, and conduct before ~~the nearest police magistrate of the municipality in which the arrest is made, or a police magistrate of a neighboring municipality~~ a judge, any persons found violating the rules and regulations enacted by the commission for the protection, preservation, regulation and control of the parks and parkways, and all property and other things therein, and in addition while on or off duty anywhere within the territorial limits of the State, shall have the same powers for the enforcement of the laws of this State and the apprehension of violators thereof as are conferred by law upon police officers or constables.

**Credits:** Amended by L.1969, c. 167, § 1, eff. Sept. 17, 1969; L.1997, c. 308, § 3, eff. July 8, 1998.



Comment

The New Jersey Rules of Court, specifically *R. 3:4-4*, set forth the procedure for “Proceedings in Arrest Under Uniform Fresh Pursuit Law.” As modified, the language of the statute is modeled on the language used in this New Jersey Rules of Court.

**40:61-22.13. Actions for violations; enforcement of rules**

The ~~magistrate~~ judge having jurisdiction over actions for the violation of other municipal ordinances shall have jurisdiction in actions for the violation of any such rule or regulation. The rules and regulations shall be enforced by the same proceedings and processes, and the practice for the enforcement thereof shall be the same as that provided by law for the enforcement of other ordinances of the municipality.

**Credits:** L.1945, c. 282, p. 832, § 8, eff. May 2, 1945.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

**40:61-22.28. Violations of rules and regulations**

The ~~magistrate~~ judge having jurisdiction over actions for the violation of other municipal ordinances shall have jurisdiction in actions for the violation of any such rule or regulation. The rules and regulations shall be enforced by the same proceedings and processes, and the practice for the enforcement thereof shall be the same as that provided by law for the enforcement of other ordinances of the municipality.

**Credits:** L.1957, c. 166, p. 598, § 8, eff. July 22, 1957.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

**40:61-26. Power of police to arrest**

Every police official of any municipality, whether a park policeman or otherwise, shall have the same powers of arrest in all parts of any park or place of public resort and recreation of such municipality, or in the joint park or place of public resort and recreation of 2 or more municipalities, whether such park or place of public resort and recreation or the part thereof, in which the arrest is made be within or without the municipality or municipalities controlling the park, or place of public resort and recreation, but the person arrested shall be brought and

prosecuted before, and if convicted, sentenced by a ~~magistrate~~ judge in the municipality or county, in which the offense charged was committed, or in the municipality, or 1 of the municipalities, controlling the park or place of public resort and recreation.

**Credits:** Amended by L.1957, c. 143, p. 544, § 1, eff. July 12, 1957.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

**40:69A-207. Existing offices abolished on effective date of optional plan; exception; administrative code to be adopted**

a. At 12 o'clock noon on the effective date of an optional plan adopted pursuant to this act, all offices then existing in such municipality shall be abolished and the terms of all elected and appointed officers shall immediately cease and determine; provided, that nothing in this section shall be construed to abolish the office or terminate the term of office of any member of the board of education, board of fire commissioners of a township fire district, trustees of the free public library, commissioners of a local housing authority, members of a municipal shade tree commission, board of managers of a municipal hospital, municipal ~~magistrates~~ judges or of any official or employee now protected by any tenure of office law, or of any policeman, fireman, teacher, principal or school superintendent whether or not protected by a tenure of office law. If the municipality is operating under the provisions of Title 11 of the Revised Statutes (Civil Service)<sup>1</sup> at the time of the adoption of an optional plan under this act, nothing herein contained shall affect the tenure of office of any person holding any position or office coming within the provisions of said Title 11 as it applies to said officers and employees. If the municipal clerk has, prior to the effective date of the optional plan, acquired a protected tenure of office pursuant to law, he shall become the first municipal clerk under the optional plan.

b. Provision for officers and for the organization and administration of the municipal government under the optional plan may be made by an interim resolution pending the adoption of an administrative code.

c. Within 90 days after the date of organization of the first municipal council elected under the optional plan, the municipal governing body shall adopt, by ordinance, an administrative code organizing the administration of the municipal government, setting forth the duties, responsibilities and powers of all municipal officers, departments and agencies, and establishing the manner of performance thereof.

The code shall restate the major provisions of the municipal charter and the applicable sections of general law, and provide such additional details as are necessary to present a

complete guide describing: the municipal offices; how municipal officers are selected; how municipal departments, divisions, boards, commissions, and agencies are organized; lines of supervisory responsibility and accountability; and procedures to be followed to carry out the functions and activities of the municipal government.

d. The administrative code shall take effect 30 days after its adoption. Thereupon, all municipal offices, departments, divisions, boards, commissions, and agencies shall assume the form, perform the duties and responsibilities, and exercise the powers granted under the administrative code in the manner prescribed therein.

e. The administrative code may be amended or supplemented from time to time by ordinance, subject to the provisions of law.

**Credits:** L.1950, c. 210, p. 523, § 17-58. Amended by L.1954, c. 69, p. 427, § 6; L.1967, c. 127, § 1, eff. June 22, 1967; L.1971, c. 268, § 2, eff. July 21, 1971; L.1977, c. 392, § 1, eff. Feb. 28, 1978; [L.1991, c. 430, § 6, eff. Jan. 18, 1992.](#)

Footnotes: <sup>1</sup> Repealed. See, now, Title 11A.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrates and replacing it with the word judges.

#### **40A:5-41. Classification system for purpose of determining amount of bond; minimum amount**

In establishing the said classification system, the board shall utilize audits made by it or under its supervision and also the reports of the municipal ~~magistrates~~ judges, on file in the administrative office of the courts. The board shall confer with the administrative director of said office and, if it shall so desire, with municipal officials. The board shall take into consideration the probable amounts of money which will be received from fines, penalties and costs, and which will be handled for bail, security, fees and other purposes. After the establishment of the said classification system, no such official bond shall be given or accepted below the minimum amount prescribed by the said classification system and in no case shall any such official bond be in an amount less than \$1,000.00.

**Credits:** L.1960, c. 169, § 1, eff. Jan. 1, 1962.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrates and replacing it with the word judges.

**41:2-5. Oath of allegiance when official oath required; recital where taken before commissioned officer**

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

**Credits:** Amended by L.1944, c. 59, p. 119, § 2; L.1953, c. 39, p. 753, § 3, eff. March 19, 1953.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate. Statute was modified to be gender neutral.

**41:2-6. Oath of allegiance when official oath 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.

**Credits:** Amended by L.1953, c. 39, p. 753, § 4, eff. March 19, 1953.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate.

**48:4-35. Definitions**

[...]

~~f. "Magistrate" shall mean judges and other officers having powers of the committing magistrate.~~

**Credits:** Amended by L.1973, c. 158, § 8, eff. June 7, 1973; L.1991, c. 91, § 469, eff. April 9, 1991.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate.

#### **48:4-43. Driver refusing to exhibit evidence of financial coverage; penalty**

Any driver of a motor vehicle who shall fail or refuse to exhibit upon request of a proper person the evidence of insurance or other financial coverage provided for in this article shall, upon conviction, be adjudged a disorderly person and shall be liable to a penalty of not more than one hundred dollars or imprisonment for a term of not more than ninety days, or both a fine and imprisonment not exceeding the aforesaid maximum, at the discretion of the ~~magistrate~~ judge before whom the conviction shall be had.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

#### **48:4-46. Definitions**

[...]

~~(f) "Magistrate" shall be deemed and understood to mean and include all judges of county and criminal courts, and other officers having powers of the committing magistrate.~~

**Credits:** Amended by L.1962, c. 198, § 85; L.1981, c. 413, § 12, eff. Jan. 7, 1982.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate.

#### **48:4-54. Refusal to exhibit evidence of financial coverage; penalty**

Any person who shall knowingly operate or permit to be operated a motor vehicle carrying passengers for hire who shall fail to display or who refuses to exhibit upon request of a proper person the evidence of insurance or other financial coverage provided for in this article shall, upon conviction, be adjudged a disorderly person and shall be liable to a penalty of not more than \$100.00 or imprisonment for a term of not more than 90 days, or both a fine and imprisonment not exceeding the aforesaid maximum, at the discretion of the ~~magistrate~~ judge before whom the conviction shall be had.

**Credits:** Amended by L.1962, c. 198, § 88.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

#### **48:12-166. Neglect or refusal to pay fare; penalty**

Any person who shall:

a. Travel or attempt to travel on any train on a railroad without having previously paid his fare and with intent to avoid payment thereof; or

b. Having paid his fare for a certain distance, knowingly and willfully proceed on such train beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid the payment thereof; or

c. Knowingly and willfully refuse or neglect on arriving at the point to which he has paid his fare to quit such train--

Shall for every such offense forfeit to the company running the train a sum not exceeding \$5.00.

On complaint made on oath and after summary hearing of the facts and circumstances or on admission of the parties, any ~~magistrate~~ judge of the municipality where the offender may be arrested shall have jurisdiction to impose such fine with costs. The arrest may be made by any police officer or constable or by a commissioned railroad policeman.

**Credits:** Amended by L.1962, c. 198, § 158; L.1969, c. 160, § 1, eff. Sept. 9, 1969.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

#### **51:8-19. Disposition of penalties**

All fines and penalties collected from persons offending against the provisions of this chapter shall be paid by the ~~magistrate~~ court or court clerk receiving the same, when recovered by a State weights and measures officer, to the State Treasurer; when recovered by a county weights and measures officer, to the county treasurer of such county; and when recovered by a municipal weights and measures officer, to the municipality which such officer represents.

**Credits:** Amended by L.1953, c. 48, p. 847, § 22.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term "court."

#### **51:9-11. Penalties; amount; disposition; municipal attorney to assist in prosecution**

Any person violating any of the provisions of this chapter shall, upon conviction thereof,

pay a penalty of not less than \$50.00 nor more than \$100.00, for the first offense, or for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding 20 days; and for a second offense, shall, after conviction, pay a penalty of not less than \$100.00 nor more than \$250.00 and for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding 40 days; and for a third or each subsequent offense, shall, after conviction, pay a penalty of not less than \$250.00 nor more than \$500.00, and for failure to forthwith pay such penalty shall be imprisoned in the county jail for a period not exceeding 60 days.

All penalties collected from persons violating the provisions of this chapter shall be paid by the ~~magistrate~~ court or court clerk receiving the same, when recovered by the State Superintendent of Weights and Measures, or his assistants, to the State Treasurer; when recovered by a county weights and measures officer, to the county treasurer of such county; and when recovered by a municipal weights and measures officer, into the treasury of the municipality which such officer represents.

It shall be the duty of the municipal attorney of any municipality wherein any violation takes place to assist in the prosecution of the same and to assist in the trial of any appeal, where a complaint is made by a municipal weights and measures official and if such municipality has no municipal weights and measures official, the county prosecutor wherein such violation takes place shall assist in such prosecution.

**Credits:** Amended by L.1953, c. 48, p. 847, § 24; 1969, c. 251, § 33, eff. Jan. 7, 1970.

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term "court."

### **56:3-21. Violations of article; imprisonment or fine**

Any person, acting for himself or as the agent of any person, firm or corporation, who violates the provisions of this article shall, for the first offense, be punished by imprisonment for not less than ten days nor more than one year, or by a fine of five dollars for each bottle, container or receptacle mentioned in section 56:3-15 of this title filled, sold, bought, given, taken, used, disposed of, trafficked in or possessed in contravention of this article, or by both such imprisonment and fine, and for each subsequent offense by imprisonment for not less than twenty days nor more than one year, or by a fine of ten dollars for each such bottle, container or receptacle so filled, sold, bought, given, taken, possessed, used, disposed of, or trafficked in, or by both such imprisonment and fine, in the discretion of the court or ~~magistrate~~ judge before which or whom the offense is tried.

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word “judge.”

**58:5A-4. Service of process; arrest of persons violating rules and regulations**

The members and officers of the said constabulary may make service of summons or any other legal process, and may arrest on view and without warrant and conduct before ~~the nearest magistrate of the municipality in which the arrest is made, or of a neighboring municipality a~~ judge, or any judge having jurisdiction to impose fines and penalties generally in said municipalities, any person found violating the rules and regulations so enacted and promulgated and in addition they shall have all the powers conferred by law on police officers or constables for the enforcement of the laws of this State in the municipalities in which the watershed properties, reservoirs, pumping stations, dams, pipelines, buildings, machinery and structures are located and the apprehension of violators thereof.

**Credits:** L.1952, c. 355, p. 1145, § 4.

Comment

The New Jersey Rules of Court, specifically *R. 3:4-4*, set forth the procedure for “Proceedings in Arrest Under Uniform Fresh Pursuit Law.” As modified, the language of the statute is modeled on the language used in this New Jersey Rule of Court.

N.J.S.A. Acts Saved From Repeal 27:17-1(25)

**27:17-1(25). Location of portion of road in advance of whole line; resolution; proceeding; regulation for use of road; penalties**

3. That if the said board of chosen freeholders, in the laying out, location and construction of said road shall be confronted with a situation of affairs which to them shall seem to render it imperatively necessary, expedient and for the best interests of the county, that a portion or portions, section or sections of said roads, not exceeding one thousand feet in length at any one point or place, shall be adopted and fixed in advance of the fixing of the whole road or whole line, course and location of said road, as provided in the original act, and they shall so declare by resolution, they shall immediately cause or procure a proper survey and map of said portion or portions, section or sections to be made, under the direction of the chief engineer of said road, and thereupon shall file or cause to be filed said survey and map in the office of the clerk of said board; and said board shall cause public notice to be given for one week, in at least one newspaper circulating in said county, of the filing of said survey and map for public inspection, inviting such objections thereto and to the adoption in advance as aforesaid, of the said portion or portions as may be deemed proper to be offered by any person or party claiming



to be interested therein, all which said objections shall be made in writing, signed by the persons or party making the same, and shall be filed with the clerk of said board; at the expiration of the week last mentioned, or as soon thereafter as the board shall assemble, it shall take up and consider the said objections, if any shall have been presented, and upon the consideration thereof, if said board shall be of opinion that said portion or portions in said survey and map shown or otherwise designated should be adhered to and fixed in advance as aforesaid, as a part of said road, notwithstanding said objection, the same shall be regarded and taken as so fixed, upon said board by a majority vote thereof voting to that effect, but if the objections shall be regarded by said board as well founded, then the adoption or fixing of said portion or portions in advance as aforesaid shall be considered as abandoned; if no objection as aforesaid is offered within the time above limited therefor, the said portion or portions so as aforesaid shown and designated shall be taken and regarded as fixed as a part of the road, and the proceedings and notices herein provided for shall, to the extent of the portion or portions adopted in advance as aforesaid, be taken and regarded as in lieu of and as if all the requirements of the original act respecting the fixing of the whole line of the road had been fully complied with, but the said action in advance shall not be regarded as in anywise a bar to or in lieu of any method of procedure, course, action, or proceedings whatever deemed necessary to be taken by said board, at, in, or respecting the final fixing, location or disposition of the line, course, distance or location of the road, as directed in and by said original act, when the time therefor shall have arrived; the proceedings herein authorized to be taken for the adoption of a portion or portions of the road mentioned in the original act in advance of the whole, shall be applicable to the said other or connecting roads, which may be provided for by said supplementary act; and said roads when constructed and open for travel thereon shall from one end to the other thereof be deemed and taken to be public roads and shall always be and remain open as such, but the same and the travel thereon shall be subject to such rules and regulations in relation thereto, and to limit and prevent the driving or travel thereon of loaded or heavy trucks, wagons or carts, as the said board may have adopted or shall adopt from time to time, and for the violation of which such board may make or prescribe reasonable penalties, not exceeding ten dollars in any case; such penalties shall be enforced by and through such process and method of procedure as shall be prescribed by the board as aforesaid by and before any police justice, ~~police magistrate~~ or recorder of any city, town or township in such county, upon proper complaint on oath being made before him, or her, and on the conviction of the offender, in default of the payment of the penalty imposed such ~~magistrate~~ may commit such offender to the county jail for any term not exceeding five days.

**Credits:** (L.1891, c. 42, § 3, p. 81 [C.S. p. 4512, § 218], suppl. to L.1888, c. 274, p. 397.)

#### Comment

The proposed modification to this statute recommends the elimination of the terms police magistrate and magistrate.

## **N.J.S.A. Acts Saved From Repeal 27:17-1(35)**

### **27:17-1(35). Penalty for violation of act or regulations thereunder; recovery; prosecution**

7. That any person violating any of the foregoing provisions or any rule or regulation prescribed thereunder, shall be subject to a penalty, for each violation, to be imposed upon conviction by the court or ~~magistrate~~ judge hearing the same, of not exceeding twenty dollars, and in default of payment thereof the offender may be committed to the county jail for any term not exceeding ten days; the penalties herein provided may be enforced by or before any justice of the peace, police justice or judge, or recorder, of any municipality within such county; and process in the nature of a warrant may be issued, or complaint made on oath, for the apprehending of the offender, or such offender may be arrested on view without warrant by any police officer, sheriff or constable in such county.

**Credits:** (L.1892, c. 61, § 7, p. 108 [C.S. p. 4518, § 228], suppl. to L.1888, c. 274, p. 397.)

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

## **N.J.S.A. Acts Saved From Repeal 40:43-65(7)**

### **40:43-65(7). Jurisdiction of courts and police officers in consolidated city; commitments; bail; transmission of papers to county officials**

7. That the jurisdiction and authority of the city court, judge, recorder or ~~magistrate~~ judge, the officers of the court and police officers of such consolidated city shall extend throughout the same irrespective of county lines. Commitments other than to the city jail shall be made to the jail of the county in which the offense was committed; bail in the case of crime and misdemeanors shall likewise be taken to run to such county, and all papers necessary to be sent to county officials shall be sent to the proper officers in the county wherein the charge is laid.

**Credits:** (L.1915, c. 374, § 7, p. 693 [1924 Suppl. § \*136-740A(7) ].)

#### Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the word judge.

**N.J.S.A. Val.:4-7.3**

**Val.:4-7.3. Acknowledgments and proofs of deeds, mortgages, etc., before foreign court, officer, etc., accompanied by certificate of ambassador, minister, consul, etc.**

1. All acknowledgments and proofs of deeds, mortgages and other writings, and the certificates thereof heretofore taken or made before any court of law, notary public, mayor or other chief ~~magistrate~~ judge of and then having been or being within any city, borough or corporation of any foreign kingdom, state, nation or colony, which is accompanied by a certificate of any public ambassador, minister, consul, vice consul, consular agent, charge d'affaires, or other representative of the United States for the time being to or such foreign kingdom, state, nation or colony, certifying that the signature and seal of the officer taking such acknowledgment, attached to the certificate thereof, are genuine, shall be as good and effectual as if such acknowledgment or proofs had been made within this state before the chancellor thereof and had been certified by him, or her.

**Credits:** (L.1914, c. 131, § 1, p. 225, suppl. to L.1898, c. 232, p. 670.)

Comment

The proposed modification to this statute recommends the elimination of the term magistrate and replacing it with the term judge.