

Alabama Rules of Criminal Procedure

Rule 12. Selection of venire; the grand jury and petit jury panels.

Rule 12.1. Drawing, summoning, and qualifying the venire.

(a) DRAWING THE VENIRE. Jurors shall be drawn and selected as provided in Title 12, Chapter 16, Ala.Code 1975.

(b) SUMMONING THE VENIRE. The clerk shall compile or have compiled under the clerk's direction a list of the jurors so selected, including their names and addresses, and may include such other information as the clerk may have obtained. If the jurors are drawn as provided for by § 12-16-70, the clerk shall prepare or cause to be prepared a summons for each juror, and shall mail or deliver the summonses and the list of jurors to the sheriff, who shall thereupon serve each juror in the manner prescribed by law. If the jurors are drawn as authorized by §§ 12-16-145 and 12-16-146, the list shall be prepared and the summonses mailed as authorized by § 12-16-145. In addition to other necessary information, the summons in either case may contain an admonition to the juror that it is improper for the juror to discuss with anyone any matter which is or might be pending before the court, and that the juror is to report immediately to the circuit judge any attempt, direct or indirect, whether intentional or otherwise, by any person to communicate with the juror concerning any matter which is or might be pending before the court or to solicit from the juror any information concerning the juror, his or her background, or his or her opinions or attitudes; provided, however, that the court may include, or cause to be included for completion and return to the court, a juror questionnaire, which would furnish the court with information about the individual juror.

(c) QUALIFYING THE VENIRE. On the opening day of the term, or on such other day as the venire shall have been summoned to appear, the judge presiding shall proceed to organize the court, by:

(1) Determining which jurors are present;

(2) Administering or causing to be administered to the jurors the following oath as required by law;

"Do you and each of you solemnly swear or affirm that you will well and truly answer all questions propounded to you touching your general qualifications as a juror, or qualifications as a grand juror or petit juror, and that you will well and truly try all issues and execute all writs of inquiry submitted to you and true verdicts render according to the law and evidence, so help you God?"

and,

(3) Inquiring of the jurors as to their qualifications in general, considering any excuse or postponement from service for the term, and excusing from service those jurors who are disqualified or who are entitled to be excused.

(d) DEFERMENT OF SERVICE. The court may, in its discretion, defer the service of any juror to a later date if the juror is unable to serve at the session for which the juror was summoned.

(e) THE VENIRE. Those persons qualified, and whose service is not excused or postponed shall become the venire from which grand or petit juries are chosen.

Committee Comments

Rule 12.1 follows current Alabama procedure. The rule provides for drawing, summoning, and qualifying the entire jury venire at one time, rather than potential grand jurors only. Rule 12.1 reads substantially like its civil counterpart, Rule 47, A.R.Civ.P. Act No. 594, Acts of Alabama, 1978, and Act No. 81-788, Acts of Alabama, 1981, codified as Ala.Code 1975, §§ 12-16-2, 12-16-58, and 12-16-70, substantially modified prior law regarding the drawing, selecting summoning and qualifying of jurors. The list of jurors shall contain their names and addresses, and may contain other information available to the clerk. See Rule 18.2.

See Ala.Code 1975, §§ 12-16-55 through -64, relating to qualifications and selection of jurors. See also Ala.Code 1975, §§ 12-16-70 through -127, and §§ 12-16-145 and 12-16-146.

The term “prescribed by law” in Rule 12.1(b) has reference to Ala.Code 1975, § 12-16-73.

Ala.Code 1975, § 12-16-74, directs the judge to hear all excuses not previously heard before drawing the names for the grand jury. In *Crowder v. State*, 27 Ala.App. 522, 524, 175 So. 330, 332 (1937), the Alabama Court of Appeals stated that, “It is the duty of the court, before administering the oath prescribed by law to any grand [or] petit ... juror, to ascertain that such juror possesses the qualifications required by law; and the duty required of the court by this section shall be considered imperative.” The Alabama Supreme Court has observed that it is the duty of the court to hear all excuses and pass upon them. *Taylor v. State*, 249 Ala. 130, 30 So.2d 256 (1947).

If for some reason a juror cannot presently serve, the court may defer service by that juror. If a juror is selected for service on the grand jury, he or she shall serve until the grand jury has been discharged or for the time prescribed by law. The court may supplement its instructions to the jurors by providing them

with a juror handbook in a form approved by the director of the Administrative Office of Courts.

Rule 12.1(b) provides that the summons may contain an admonition concerning the role of a juror. The rule also provides that the list compiled shall include the names and addresses of the jurors and may include any other information about jurors which the clerk has available. This additional information can include such things as occupation, etc.