

Alabama Rules of Criminal Procedure

Rule 1. Scope; Purpose, Objectives, and Construction; Computation and Enlargement of Time; Definitions; Effective Date.

Rule 1.3. Computation and enlargement of time.

(a) COMPUTATION. In computing any period of time of more than twenty-four (24) hours prescribed by these rules, by order of court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is not to be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday, legal holiday, a day the county courthouse is closed, or a day on which the appropriate clerk's office is closed pursuant to Rule 5(B) or (C), Alabama Rules of Judicial Administration (Ala. R. Jud. Admin.), in which case the period shall run until the end of the next day which is not a Saturday, Sunday, a legal holiday, a day the county courthouse is closed, or a day on which the clerk's office is closed pursuant to Rule 5(B) or (C), Ala. R. Jud. Admin. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, legal holidays, days the county courthouse is closed, or days on which the clerk's office is closed pursuant to Rule 5(B) or (C), Ala. R. Jud. Admin., shall be excluded from the computation. As used in this rule, "legal holiday" includes New Year's Day, Birthday of Martin Luther King, Jr., Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or as prescribed in Ala. Code 1975, § 1-3-8. Whenever a party has the right or is required to take some action within a prescribed period after service of a notice or other paper and such service is allowed and made by mail, three (3) days shall be added to the prescribed period.

(b) ENLARGEMENT. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for good cause shown may at any time in its discretion (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect, but it may not, except as provided elsewhere in these rules, extend the time for making a motion for new trial, for taking an appeal, or for making a motion for a judgment of acquittal pursuant to Rule 20.

In computing time for purposes of Rule 4, the provisions of this rule shall not apply.

[Amended 9-19-91, eff. 10-1-91; Amended eff. 10-30-2009.]

Committee Comments

The rule for computing time, including the listing of the specific holidays, corresponds with Rule 6(a), A.R.Civ.P. Clarifying which holidays are included will prevent confusion where certain federal holidays are not observed in Alabama. Ala.Code 1975, § 1-3-8, lists state holidays and provides for holidays by gubernatorial declaration. The provision for three (3) days' extension of time where service is had by mail corresponds with Rule 6(e), A.R.Civ.P. It is intended that when possible the practice in civil and criminal courts will be uniform.

Section (b) providing for enlargement by the court of time limitations is virtually identical to Rule 6(b), A.R.Civ.P. This rule provides relief while the people charged with responsibility for operating the judicial process learn to work with the new rules. Also, situations can arise where flexibility is necessary in order to accord substantive due process.

Note from the reporter of decisions: The order amending Rule 1.3(a), effective October 30, 2009, is published in that volume of *Alabama Reporter* that contains Alabama cases from ____ So. 3d.