

## Alabama Rules of Criminal Procedure

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

#### *Rule 12.2. Empaneling the grand jury and petit juries.*

(a) EMPANELING THE GRAND JURY. After qualifying the venire, if a grand jury is to be empaneled at the term or session of court, the court shall randomly draw from the venire list the names of eighteen (18) qualified jurors who shall be sworn and empaneled and shall constitute the grand jury.

(b) SPECIAL AND ADDITIONAL GRAND JURIES. The judge presiding at any special term of the court may, in the same manner, empanel a grand jury having like powers as the grand jury empaneled at a regular term. If the expeditious administration of justice so requires, whether at a regular or special term, the court may likewise empanel additional grand juries to operate concurrently with the first.

(c) SUPPLEMENTAL GRAND JURORS. If the number of grand jurors is reduced below thirteen (13) in the investigation of any matter or matters, the court shall supply the deficiency from the qualified jurors of that county in the manner described in Rule 12.2(a) for empaneling a grand jury, and the persons so placed on the grand jury shall serve only during such investigation.

(d) EMPANELING THE PETIT JURIES. If the venire has been summoned for the trial of criminal or civil cases, or both, for the session, the judge shall cause to be randomly compiled a master strike list containing the names of all petit jurors, and they shall thereafter be available for the trial of civil and/or criminal cases without further oath or qualification except with respect to each particular case to be tried.

### Committee Comments

Rule 12.2(a) reflects the requirements of Ala.Code 1975, § 12-16-74, which provides for empaneling and organizing the grand jury.

The Alabama Supreme Court held in *Petty v. State*, 224 Ala. 451, 140 So. 585 (1932), that when a grand jury is organized, it is presumed to continue until the half-yearly endings of the term, unless discharge by an order of the court. See also *Oliver v. State*, 232 Ala. 5, 166 So. 615 (1936); *Riley v. State*, 209 Ala. 505, 96 So. 599 (1923). When the judge orders a special session of the court and a corresponding special grand jury, such order operates to dissolve or discharge the first grand jury. *Petty v. State*, supra. Ala.Code 1975, § 12-16-190, provides that if the grand jury completes its business, it may, at the discretion of

the court, recess, subject to recall by the judge of the circuit court or the Chief Justice of the Supreme Court.

Section (b) allows empaneling of the grand jury for a special term of court and provides for the empaneling of additional grand juries if such is required. Ala.Code 1975, § 12-16-190, provides that each county must have at least two grand juries annually. Counties of over 50,000 population must have a minimum of four grand juries per year.

Section (c) is taken directly from Ala.Code 1975, § 12-16-207(b). Section (d) provides that after selection of grand jurors, the rest of the venire shall be randomly compiled on a master strike list for service as petit jurors in both civil and criminal cases. This combining of jurors for civil and criminal trials comports with present practice and is consistent with Rule 47(b), Ala.R.Civ.P. It is discretionary and permits flexibility from one circuit to the other.