

Alabama Rules of Criminal Procedure

Rule 13. Charges: Indictment, Information, and Complaint.

Rule 13.2. Nature and contents of indictment or information.

(a) IN GENERAL. The indictment or information shall be a plain, concise statement of the charge in ordinary language sufficiently definite to inform a defendant of common understanding of the offense charged and with that degree of certainty which will enable the court, upon conviction, to pronounce the proper judgment.

(b) CHARGING THE OFFENSE. The indictment or information shall state for each separate offense, other than lesser included offenses, the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated.

(c) NOTICE OF NECESSARILY INCLUDED OFFENSES. Specification of an offense in an indictment or information shall constitute a charge of that offense and of all lesser offenses necessarily included therein.

(d) UNNECESSARY ALLEGATIONS. An indictment or information which is in conformity with sections (a) and (b) shall be sufficient. The indictment or information need not contain a formal commencement, a formal conclusion, or any other matter not necessary to the statement of facts, nor need it negative any defense or affirmative defense contained in any statute creating or defining the offense charged. Presumptions of law and matters of which judicial notice is taken need not be stated. It is not necessary to state the precise time or date at which or on which the offense is alleged to have been committed, or the place where the offense is alleged to have been committed unless the time or place is a material element of the offense. Unnecessary allegations may be disregarded as surplusage, and, on motion of the defendant, shall be stricken by the court if prejudicial or prolix.

(e) MOTION FOR MORE DEFINITE STATEMENT. A motion for more definite statement may be made at any time prior to entry of the defendant's plea, which motion shall be granted for good cause shown. A statement filed in compliance with a motion for more definite statement may be thereafter amended at any time subject to such conditions as justice requires.

Committee Comments

This rule is designed to simplify the pleading in criminal matters, much the same as the simplification of pleading in civil actions, and it eliminates the necessity of formal averments of such things as qualifications of grand jurors.

Ala.Code 1975, § 15-8-25, requires:

“An indictment must state the facts constituting the offense in ordinary and concise language, without prolixity or repetition, in such a manner as to enable a person of common understanding to know what is intended and with that degree of certainty which will enable the court, on conviction, to pronounce the proper judgment. In no case are the words ‘force of arms’ or ‘contrary to the form of the statute’ necessary.”

In Alabama, the rule is that “indictments are rather a statement of legal conclusion, than of facts,” and it is not required that an indictment plead evidentiary facts necessary to a conviction. *Hochman v. State*, 265 Ala. 1, 3, 91 So.2d 500, 501 (1956). An indictment is sufficient if it substantially follows the language of the statute violated, provided the statute prescribes with definiteness the constituents of the offense. *Ex parte Allred*, 393 So.2d 1030, 1032 (Ala.1981).

Section (b) requires that the citation of any applicable statute, etc., be included. Since the adoption of the criminal code, this should not be an undue burden and will ensure that the defendant and his attorney will know exactly what offense is charged and thus be able to discover and take advantage of any exception, defense, or affirmative defense permitted by law. Section (b) makes it clear that lesser included offenses do not have to be cited.

Section (c) provides that allegation of facts constituting an offense will encompass all lesser offenses necessarily included therein, without the necessity for so stating in the indictment or information. Lesser included offenses are found in Ala.Code 1975, § 13A-1-9(a).

Section (d) is a safeguard against the longstanding common law rules of pleading with which Alabama criminal procedure has been burdened. Statements of time and place are specifically made unnecessary (unless they are a material ingredient of the offense) by Ala.Code 1975, §§ 15-8-30 and 15-8-31. The provisions of Ala.Code 1975, § 15-8-3, are superseded by this section.

Section (e) provides a necessary safeguard for the defendant, in that for good cause shown the defendant can compel the state to submit additional details of the offense not required to be set out in the body of the indictment. Because of the “good cause” requirement, it is contemplated that motions for more definite statement will not be routinely made or granted.

Rule 13.2, taken together with Rule 13.5(a), which provides for amendment of charges, and Rule 15.5(c) tolling the running of statutes of limitation, should work to eliminate most circumstances where the state is precluded from prosecuting a defendant due to a pleading technicality.

See *Ex parte Allred*, 393 So.2d 1030 (Ala.1981); *Hochman v. State*, 265 Ala. 1, 91 So.2d 500 (1956).