

# **MAINE STATE LEGISLATURE**

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## CHAPTER 103

### COMPLAINTS

Sec.

- 751. Sufficiency of indictment for murder or manslaughter.
- 752. Owner of property as used in indictment.
- 753. General allegation of intent to defraud sufficient.
- 754. Variance; amendments.
- 755. Complaints and indictments not quashed for technicalities nor unimportant defects in venires.
- 756. Recitation of ordinance or bylaws.
- 757. Prior convictions alleged separately; subsequent arraignment.

#### § 751. Sufficiency of indictment for murder or manslaughter

It is sufficient in every indictment for murder to charge that the defendant did feloniously, willfully and of his malice aforethought kill and murder the deceased; and for manslaughter, to charge that the defendant did feloniously kill and slay the deceased without, in either case, setting forth the manner or means of death.

R.S.1954, c. 145, § 11.

#### § 752. Owner of property as used in indictment

In an offense in any way relating to real or personal estate it is sufficient and not a variance if it is proved at the trial that, when the offense was committed, the actual or constructive possession of or the general or special property in the whole of such estate or in any part thereof was in the person or community alleged in the indictment to be the owner thereof.

R.S.1954, c. 145, § 12.

#### § 753. General allegation of intent to defraud sufficient

When an intent to defraud is necessary to constitute an offense, it is sufficient to allege generally in the indictment an intent to defraud. If there appears on trial an intent to defraud the United States, any state, county, town, person or corporation, it is sufficient.

R.S.1954, c. 145, § 13.

**§ 754. Variance; amendments**

No variance between any matter in writing or in print, produced in evidence on the trial of a criminal cause, and the recital or setting forth thereof in the complaint, indictment or other criminal process whereon trial is had, is material, provided the identity of the instrument is evident and the purport thereof is sufficiently described to prevent prejudice to the defendant. Any criminal process may be amended, in matters of form, at any time before final judgment. Any complaint, indictment or other criminal process for any offense, except for a felony, may be amended in matters of substance, provided the nature of the charge is not thereby changed.

R.S.1954, c. 145, § 14.

**§ 755. Complaints and indictments not quashed for technicalities nor unimportant defects in venires**

No indictment or complaint shall be quashed or adjudged bad, nor shall the proceedings or judgment thereon be arrested, reversed or affected by reason of the omission or misstatement of the title, occupation, estate or degree of the accused; of the name of the municipality or county of his residence, or of the words "feloniously," "force and arms," "against the peace" or "contrary to the form of the statute," if such omission or misstatement does not tend to his prejudice; nor by reason of any defect, want of form or irregularity in the venires for grand or traverse jurors, or in the issuing or return of the same, or in the drawing or summoning of grand or traverse jurors, unless it appears to the court that the respondent has been or may be injured thereby.

R.S.1954, c. 145, § 15.

**§ 756. Recitation of ordinance or bylaws**

In any prosecution before the District Court for violation of an ordinance or bylaw of a city or town, or of any bylaw of a village corporation or local health officer, it shall not be necessary to recite such ordinance or bylaw in the complaint, or to allege the offense more particularly than in prosecutions under a general statute.

R.S.1954, c. 146, § 15; 1963, c. 402, § 246.

**§ 757. Prior convictions alleged separately; subsequent arraignment**

In all cases where prior conviction for an identical offense or any other offense affects the sentence which the court may impose in a current principal offense, such prior conviction shall not be alleged in the complaint, information or indictment alleging such principal offense, but shall be alleged in a separate complaint, information or indictment, ancillary to the principal offense, upon which the respondent shall not be arraigned until such time as the respondent has been convicted of the principal offense.

1961, c. 268, § 1.