



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Senate Bill 57

Senate Substitute Amendment 1

Memo published: May 18, 2017

Contact: Michael Queensland, Senior Staff Attorney

2017 SENATE BILL 57

Very generally, under 2017 Senate Bill 57, if a defendant is convicted of a Class I felony, the court may refrain from designating the crime as a misdemeanor or a felony under certain circumstances. The court may order the crime designated as a Class I felony or a Class A misdemeanor when the defendant completes the sentence or period of probation. Until the court designates the crime, the defendant must be treated as if the conviction were a felony.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 (the substitute amendment) provides that if a defendant is convicted of a crime punishable as a Class I felony, the court may enter the judgment of conviction as an undesignated felony if it determines all of the following:

- The felony was not a violent crime.
- The felony did not involve a weapon.
- The defendant has not been previously convicted of a felony.
- The defendant has not had a prior judgment for an undesignated felony amended to a Class A misdemeanor.
- The best interests of the community will be served and the public will not be harmed by the disposition.
- The sentence for a felony would be unduly harsh given the nature and the circumstances of the crime and the history and character of the defendant.

If the court enters a judgment as an undesignated felony, it must be recorded as a “U felony.” The maximum penalties for an undesignated felony are the same as the maximum penalties for a Class I felony, a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

Under the substitute amendment, a defendant that has been convicted of an undesignated felony may file a petition with the court to amend of the judgment of conviction to designate the undesignated felony as a Class I felony or a Class A misdemeanor. A defendant may not file this petition with the court until one year after the defendant completes his or her sentence or, if placed on probation, one year after the defendant completes the period of probation.

Once a defendant has filed a petition with the court to amend a judgment of conviction to designate an undesignated felony as a Class I felony or a Class A misdemeanor, the substitute amendment requires the court to do one of the following:

- Amend the judgment to a Class I felony, without a hearing, if any of the following occur after the undesignated felony judgment was entered:
 - The defendant was convicted of a crime.
 - The defendant had his or her parole or extended supervision revoked.
 - The defendant had his or her probation revoked.
- In all other cases, schedule a hearing to amend the judgment to a Class I felony or a Class A misdemeanor within 90 days of receiving the petition.

Under the substitute amendment, after entry of a judgment as an undesignated felony, and until the court amends the judgment to a Class I felony or Class A misdemeanor, the defendant must be treated as if the conviction were for a felony. If a court schedules a hearing and amends the judgment for an undesignated felony to a Class A misdemeanor, the defendant must be treated as if the original conviction was for a misdemeanor.

BILL HISTORY

Senate Substitute Amendment 1 was introduced by Senator Vukmir on April 18, 2017. The Senate Committee on Judiciary and Public Safety voted on May 11, 2017 to recommend adoption of the substitute amendment by a vote of Ayes, 3; Noes, 2; and passage of the bill, as amended, by a vote of Ayes, 5; Noes, 0.

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