



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0053/1
CMH:emw&amn

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 91**

April 19, 2017 - Offered by Representative SANFELIPPO.

1 **AN ACT** *to create* 971.368 of the statutes; **relating to:** undesignated felonies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 971.368 of the statutes is created to read:

3 **971.368 Undesignated felony.** (1) If a defendant is convicted of a crime
4 punishable as a Class I felony, the court may enter the judgment of conviction as an
5 undesignated felony if the court determines that the felony was not a violent crime
6 and did not involve a weapon; the defendant has not been previously convicted of a
7 felony before the current conviction and has not had a judgment amended to a Class
8 A misdemeanor under sub. (3); the best interests of the community will be served and
9 the public will not be harmed by the disposition; and the sentence for a felony would
10 be unduly harsh given the nature and the circumstances of the crime and the history
11 and character of the defendant. If the court enters the judgment as an undesignated

1 felony, the felony shall be recorded as a U felony and the court shall impose a sentence
2 with the maximum penalties being the same as the maximum penalties for a Class
3 I felony.

4 (2) One year after the defendant completes the sentence under sub. (1),
5 including any parole or extended supervision, or, if placed on probation, one year
6 after the defendant completes the period of probation, the defendant may file a
7 petition with the court to amend of the judgment of conviction to designate the U
8 felony as a Class I felony or a Class A misdemeanor.

9 (3) If the defendant was convicted of a crime since the judgment was entered
10 under sub. (1), had his or her parole or extended supervision revoked while serving
11 a sentence imposed under sub. (1), or, if placed on probation under sub. (1), had his
12 or her probation revoked, the court shall, upon receiving the petition under sub. (2),
13 amend the judgment to a Class I felony without a hearing. Otherwise, the court shall
14 schedule a hearing to amend the judgment to a Class I felony or a Class A
15 misdemeanor within 90 days of receiving the petition. If the court schedules a
16 hearing to amend the judgment and the court amends the judgment to a Class A
17 misdemeanor, the defendant shall be treated as if the original conviction was for a
18 misdemeanor.

19 (4) After the entry of judgment under sub. (1) and before the court amends the
20 judgment under sub. (3), or if the defendant does not file a petition under sub. (2),
21 the defendant shall be treated as if the conviction were for a felony.

22 (END)