

Senate Engrossed House Bill

undesignated offenses; misdemeanor status; exceptions

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 192
HOUSE BILL 2162

AN ACT

AMENDING SECTION 13-604, ARIZONA REVISED STATUTES; RELATING TO SENTENCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-604, Arizona Revised Statutes, is amended to
3 read:

4 13-604. Class 6 felony; designation

5 A. Notwithstanding any other provision of this title, if a person
6 is convicted of any class 6 felony not involving a dangerous offense and
7 if the court, having regard to the nature and circumstances of the crime
8 and to the history and character of the defendant, is of the opinion that
9 it would be unduly harsh to sentence the defendant for a felony, the court
10 may enter judgment of conviction for a class 1 misdemeanor and make
11 disposition accordingly or may place the defendant on probation in
12 accordance with chapter 9 of this title and refrain from designating the
13 offense as a felony or misdemeanor until the probation is terminated. The
14 offense shall be treated as a ~~felony~~ MISDEMEANOR for all purposes until
15 such time as the court may actually enter an order designating the offense
16 a misdemeanor OR A FELONY. This subsection does not apply to any person
17 who stands convicted of a class 6 felony and who has previously been
18 convicted of two or more felonies.

19 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION AND UNTIL THE COURT
20 ACTUALLY ENTERS AN ORDER DESIGNATING AN OFFENSE A MISDEMEANOR OR A FELONY,
21 THE OFFENSE SHALL BE TREATED AS A FELONY CONVICTION FOR ALL OF THE
22 FOLLOWING PURPOSES:

23 1. PLACING THE DEFENDANT ON FELONY PROBATION PURSUANT TO CHAPTER 9
24 OF THIS TITLE, INCLUDING FOR THE PURPOSES OF TITLE 31, CHAPTER 3, ARTICLE
25 4.1.

26 2. FOR THE PURPOSES OF DNA COLLECTION PURSUANT TO SECTION 13-610.

27 3. DETERMINING THE DEFENDANT'S RIGHT TO POSSESS A FIREARM PURSUANT
28 TO CHAPTER 31 OF THIS TITLE.

29 4. BEING USED AS A HISTORICAL PRIOR FELONY CONVICTION.

30 5. BEING ADMISSIBLE FOR IMPEACHMENT PURPOSES IN A SUBSEQUENT TRIAL.

31 6. BEING USED TO ENHANCE THE SENTENCE PURSUANT TO CHAPTER 7 OF THIS
32 TITLE.

33 C. THE COURT SHALL DESIGNATE AN UNDESIGNATED OFFENSE AS A
34 MISDEMEANOR ON THE DEFENDANT'S SUCCESSFUL FULFILLMENT OF THE CONDITIONS OF
35 PROBATION AND DISCHARGE BY THE COURT. THE DEFENDANT SUCCESSFULLY FULFILLS
36 THE CONDITIONS OF PROBATION IF, IN THE DISCRETION OF THE COURT, THE
37 DEFENDANT HAS SATISFIED THE CONDITIONS OF PROBATION. THIS SUBSECTION
38 APPLIES TO A DEFENDANT WHO OWES ANY OUTSTANDING MONETARY OBLIGATION UNLESS
39 THE DEFENDANT OWES VICTIM RESTITUTION OR HAS WILFULLY FAILED TO PAY THE
40 MONETARY OBLIGATION.

1 ~~B.~~ D. If a crime or public offense is punishable in the discretion
2 of the court by a sentence as a class 6 felony or a class 1 misdemeanor,
3 the offense shall be deemed a misdemeanor if the prosecuting attorney
4 files any of the following:

5 1. An information in superior court designating the offense as a
6 misdemeanor.

7 2. A complaint in justice court or municipal court designating the
8 offense as a misdemeanor within the jurisdiction of the respective court.

9 3. A complaint, with the consent of the defendant, before or during
10 the preliminary hearing amending the complaint to charge a misdemeanor.

11 Sec. 2. Applicability

12 This act applies to a person who is convicted on or after the
13 effective date of this act.

14 Sec. 3. Effective date

15 This act is effective from and after June 30, 2022.

APPROVED BY THE GOVERNOR APRIL 9, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2021.