

Felonies vs. Misdemeanors: What's the Difference?

Felonies

- What is the punishment for a felony?
- How does the "three strikes" law work?
- Can a felon vote?

Felonies are typically the most serious crimes in any system of criminal law. A standard definition of a felony is any crime punishable by more than one year in prison or by death. This means that any crime that has a sentence of only a fine or confinement in the local jail is not a felony. Often the offense itself is not labeled as a felony, but the punishment tells the public that the offense is a felony. On the other hand, state codes may label a crime a "gross" or "aggravated" misdemeanor but provide for a sentence of more than one year in the state penitentiary system, thereby ensuring that the so-called misdemeanor is treated as felony in many respects.

If a crime is a felony, additional criminal procedures apply. The right to a court-appointed attorney in cases where the defendant is too poor to afford to hire a lawyer is usually triggered if the charge is a felony, but not for less-serious crimes. Likewise, whether or not a criminal defendant must be present in court for various parts of the process may depend on whether he or she is charged with a felony.

In some jurisdictions, felonies can only be charged upon a grand jury indictment, while lesser crimes can be charged by a written information. Criminal defendants and witnesses can have their testimony disregarded in some jurisdictions by showing a prior conviction for a felony but not for a lesser crime. Finally, many jurisdictions base their "three strikes" laws on felonies but not misdemeanors. If the offender has been twice convicted of a felony, one more felony conviction will subject him to life in prison.

In addition to differences in procedural criminal law, the substantive law can be affected if a crime is designated a felony. Some statutes make an accidental death a murder if it occurs in the commission of a felony, but if it occurs in the commission of a lesser crime, it is only manslaughter. Burglary is defined at common law as breaking and entering a house for the purpose of committing a felony; if the purpose was not to commit a felony the crime cannot be charged as burglary.

The crime of conspiracy may carry a harsher penalty if the offense is conspiracy to commit a felony rather than conspiracy to commit a misdemeanor. Justifiable homicide is sometimes described as a killing to prevent the commission of a felony, although more commonly it is limited to prevention of certain of the most serious felonies.

A person convicted of a felony may have more restrictions on their rights than a person convicted of a lesser crime. In many jurisdictions, felons cannot serve on juries. Often times they lose their right to vote or to practice certain professions, such as lawyer or teacher. Felons may be prohibited from owning guns or serving in the military. Some states have a "three strikes, you're out" statute which provides that a person who already has been convicted of two felonies may be sentenced to life in prison if he or she is convicted of a third felony.

Some felonies are assault in the first degree or assault that causes serious bodily injury, all degrees of murder, rape or sexual abuse in the first degree, grand theft, kidnapping, embezzlement of large amounts of money, serious drug crimes, and racketeering.

Misdemeanors

- Are misdemeanors serious crimes?
- What is a misdemeanor?

Misdemeanors are less-serious crimes. They are generally punishable by a fine or incarceration in the county jail for less than one year. The prosecutor does not usually convene a grand jury to investigate and charge misdemeanor offenses, although such charges can be generated along with felonies. Most misdemeanors are charged by written indictment and in many jurisdictions, poor defendants are not entitled to a court-appointed lawyer. Often, misdemeanors are handled by special courts with abbreviated procedures. For instance, the defendant may have to request and pay a fee in order to get a jury trial. Misdemeanor traffic offenses may have pre-set penalties in the form of scheduled fines.

The consequences for misdemeanor convictions are generally less severe than for felony convictions. A person with a misdemeanor crime on his record may still be able to serve on a jury, practice the professions, and vote. Serious felonies like assault and sexual abuse may have misdemeanor charges as part of the statutory scheme. For instance assault causing severe bodily injury is a felony, but simple assault which leaves no lasting injury is a misdemeanor. Likewise, rape is a felony, but lascivious acts is a misdemeanor.

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