

MISDEMEANOR LAW

Penalties • Charged • Accused • Convicted

Misdemeanor Criminal Defense

In California, criminal offenses are classified as infractions, misdemeanors or felonies.

- Infractions such as traffic violations are punishable by a fine & no jail time.
- Misdemeanor crimes are considered more serious than infractions but less serious than felonies, and carry a punishment of less than 1 year in jail and a fine of up to \$1,000.
- Felonies are serious offenses that generally carry a jail sentence (possibly state prison) of one year or more.

California Misdemeanor Law

Misdemeanors are usually charged by a written complaint or "information" (formal charges without a grand jury). Typically the complaint is mailed to the accused by the prosecutor's office requesting their presence in court at a specified date.

While misdemeanor charges may be considered minor, being accused and/or convicted can have devastating lifelong effects.

Misdemeanor examples include:

- DUI (driving under the influence)/DWI (driving while intoxicated): 1st , 2nd, or 3rd offense, no injuries
- Trespass
- Petty Theft/Shoplifting
- Disorderly Conduct
- Obscene Matter
- Probation Violations
- Unlicensed Driver
- Gambling
- Solicitation of Prostitution
- Violation of Restraining Orders
- Reckless Driving
- Assault and Battery (no or minimum injury)
- Domestic Violence

Elevating Misdemeanors to Felonies

If the prosecutor alleges a prior similar act, he/she may elevate a simple misdemeanor to a felony with the possibilities of increased jail time and a state prison sentence. Examples of these offenses include:

- Petty Theft
- Domestic Violence
- Violation of a Domestic Violence Order
- Drunk Driving (DUI/DWI) with 3 priors in 10 years
- Indecent Exposure
- Loaded Firearm in a Public Place

Whether a crime is charged as a misdemeanor or a felony depends on the seriousness of the crime, injuries to the victim, and the defendant's prior criminal record.

Misdemeanor Sentencing: Penalties and Consequences

If a defendant is **convicted of a misdemeanor**, either by a plea or a jury trial, the **court can impose probation** (informal) with or without jail time, community service, physical labor, counseling, restitution (paying the victim), **fines** (\$200 to \$2,000), and "stay-away" orders.

A conviction also results in the person having a permanent criminal record.

The Right Defense Attorney Makes All the Difference

Even in a misdemeanor case, it's important to have strong criminal defense representation. An experienced, knowledgeable and skilled attorney will reduce your chances of going to JAIL and in some cases reduce the charges all together.

We specialize in defending those accused of misdemeanors and felonies. We have an outstanding record of obtaining **alternative sentencing** and **reduced sentences**, and **expunging records** (erasing charges) for our clients.

Frequently Asked Questions

1. Do I need an attorney for a misdemeanor?

Yes! Representing yourself puts you at a major disadvantage, and a misdemeanor conviction results in a criminal record, which can affect your future employability. Most companies don't hire candidates with a criminal background. For the best outcome, please contact a knowledgeable and experienced criminal defense attorney such as Jerry Nicholson.

2. What can I do if I am falsely accused of crime?

Do not attempt to talk your way out of the charges or represent yourself in court! Even innocent people end up in jail. Your first step is to secure a knowledgeable and experienced criminal defense attorney who knows his way around the criminal justice system and can talk to the prosecutor and the judge on your behalf.

3. If I intend to plead guilty, why do I need an attorney?

You need an attorney to ensure that your sentence is minimized. An experienced criminal defense attorney may reduce your chances of going to jail by negotiating a better plea and or a reduction of the charges, depending on the offense and your prior criminal history.

4. Should I listen to the advice of friends, relatives, or police officers?

Absolutely not! These people are not experts and are probably not familiar with the prosecutor or judge handling your case. Each case is different and must be reviewed in its entirety. Only after a thorough analysis by an experienced criminal defense attorney can you have a better idea of how the case can be resolved.

5. Am I facing jail time on a misdemeanor count?

Misdemeanors carry a maximum punishment of 1 year. Your jail time will depend on your previous criminal record, case facts, the victim's attitude toward you, outstanding restitution, and whether you're on probation. In some cases, jail can be substituted by community service or CalTrans (physical labor).