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**AB-321 Misdemeanors.** (2025-2026)

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**Assembly Bill No. 321**

**CHAPTER 611**

An act to amend Section 17 of the Penal Code, relating to crimes.

[ Approved by Governor October 11, 2025. Filed with Secretary of State October 11, 2025. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 321, Schultz. Misdemeanors.

Existing law provides that a crime punishable with death, by imprisonment in the state prison, or by imprisonment in a county jail for more than one year is a felony and all other offenses, except those that are classified as infractions, are misdemeanors. Existing law further provides that a crime that is punishable, in the discretion of the court, as a felony or as a misdemeanor is a misdemeanor under certain circumstances, including when, at or before the preliminary examination or prior to a certain order being filed, the magistrate determines that the offense is a misdemeanor.

This bill would instead make a crime a misdemeanor under that condition any time the court, prior to trial, determines that the offense is a misdemeanor. The bill would also require, following a denial of a motion under this provision, a subsequent motion to be made only upon a showing of changed circumstances.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 17 of the Penal Code is amended to read:

**17.** (a) A felony is a crime that is punishable with death, by imprisonment in the state prison, or, notwithstanding any other law, by imprisonment in a county jail under the provisions of subdivision (h) of Section 1170. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170, or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170.

(2) When the court, upon committing the defendant to a secure youth treatment facility, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) (A) When the court determines, prior to trial, either on its own motion or the motion of a party, that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

(B) Following a denial of a motion pursuant to subparagraph (A), a subsequent motion pursuant to subparagraph (A) may only be made upon a showing of changed circumstances, which includes, but is not limited to, newly available facts relevant to the charge or defendant's personal circumstances, or change in the applicable law.

(c) When a defendant is committed to a secure youth treatment facility for a crime punishable, in the discretion of the court, either by imprisonment in the state prison or imprisonment in a county jail under the provisions of subdivision (h) of Section 1170, or by fine or imprisonment in the county jail not exceeding one year, the offense shall, upon the discharge of the defendant from the secure youth treatment facility, thereafter be deemed a misdemeanor for all purposes.

(d) A violation of any code section listed in Section 19.8 is an infraction subject to the procedures described in Sections 19.6 and 19.7 in either of the following cases:

(1) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time they are arraigned, after being informed of their rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant, determines that the offense is an infraction, in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.

(e) This section does not authorize a judge to relieve a defendant of the duty to register as a sex offender pursuant to Section 290 if the defendant is charged with an offense for which registration as a sex offender is required pursuant to Section 290, and for which the trier of fact has found the defendant guilty.

(f) When the court exercises its discretion under this section, an unfulfilled order of restitution or a restitution fine shall not be grounds for denial of a request or application for reduction.