

*If You Have Been Charged with a Crime in Florida,  
Familiarizing Yourself with Your Charges and the Potential  
Penalties If You are Convicted is the First Step to Making Yourself  
More Informed, Empowered and Ultimately, Less Frightened*

# FLORIDA CRIMINAL OFFENSES



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Being charged with a criminal offense in Florida can be a frightening experience, particularly if it is the first time you have been involved in the criminal justice system. Whether it is your first arrest or your 10th though, the old saying "knowledge is power" applies. If you have been

charged with a crime you should retain the services of an experienced Florida criminal defense attorney; however, that does not mean that you should not familiarize yourself with your charges and the potential penalties if you are convicted. Only your attorney can answer specific questions regarding your charges, your defense, and the likely outcome of your case but there is a wealth of general information that may help you feel more informed, empowered, and ultimately less frightened.

## **FELONIES, MISDEMEANORS AND TRAFFIC OFFENSES**

In the state of Florida, as is the case in most states, criminal offenses are divided into categories-felonies, misdemeanors, and traffic offenses. Felony offenses are the most serious crimes and, therefore, carry the harshest potential penalties. Misdemeanor offenses are less serious crimes which carry with them lesser potential penalties and fines. A traffic offense can be either a criminal offense or a civil infraction. Speeding, for example, is a civil infraction punishable by a fine. Driving under the influence, on the other hand, is a criminal offense charged as a misdemeanor if it is a first offense.

## **MISDEMEANOR PENALTIES**

A misdemeanor is a criminal offense punishable by up to a year in a county jail. In Florida, misdemeanors are further subdivided by degrees. A first-

degree misdemeanor is punishable by up to a year in jail while a second degree misdemeanor is punishable by up to 60 days in jail.

In addition to the possibility of jail time, conviction of a misdemeanor also carries with it the possibility of a fine. Although there are exceptions, as a general rule second-degree misdemeanors carry a potential fine of up to \$500 while first-degree misdemeanors are punishable by a fine of up to \$1000.

## UNDERSTANDING PROBATION



In addition to, or in lieu of, a term of incarceration you could be sentenced to a term of probation if convicted of a misdemeanor offense. Sometimes the judge will actually sentence you to a term of incarceration and then suspended that sentence and place you on probation. Most defendants pay

very little attention to the potential maximum penalty associated with the charge when they are sentenced to probation, instead hearing only that they do not have to go to jail at the moment. It is important to understand, however, that if you are placed on probation and you violate that probation there is a very good chance that you will be sentenced to a period of incarceration if the judge finds you guilty of the violation. For example, imagine that you are convicted of a misdemeanor battery and the judge sentenced you to serve one year on probation, submit to a drug and alcohol evaluation, attend counseling or anger management, pay fine of \$500, and complete 40 hours of community service work. Further imagine that 10 months later you failed to report to your probation officer as directed and your drug test from your previous appointment comes back positive. A violation of your probation could be filed. If that occurs and the

judge finds that you violated your probation the judge could revoke your probation and order you to serve up to 364 days in the county jail.

## FELONY PENALTIES

A felony offense is a crime that is punishable by more than a year in a state correctional facility. Just as with misdemeanors, felonies are further subdivided into capital felonies, life felonies, and first, second, and third degree felonies. As the name implies, a capital felony is a felony offense for which the death penalty can be imposed if convicted.

Likewise, a life felony is a criminal offense that is punishable by life in prison if convicted and up to a \$15,000 fine. The most common example of a capital or life in prison felony is first degree



murder. After that it gets a bit more complicated. First-degree felonies are typically punishable by up to 30 years in prison and up to a \$10,000 fine, however, some first-degree felonies carry a potential life sentence if the crime was committed while in possession of a weapon. A second-degree felony is punishable by up to 15 years in prison and a \$10,000 fine. The least severe of the felonies is a third degree felony which carries up to a five-year prison term and up to a \$5,000 fine if convicted.

## MANDATORY MINIMUM SENTENCING

Many states across the country have enacted mandatory minimum sentences for particularly egregious or violent crimes. The State of Florida is known for having harsh mandatory minimum sentences. Although too numerous to list here, mandatory minimum sentences can be found in many of Florida's drug offense statutes as well as in crimes where a firearm or weapon was used. Lesser crimes, however, may also require you

to serve a mandatory minimum length of incarceration. A second conviction for DUI, for instance, requires a mandatory 10 days county jail.

## FACTORS THAT AFFECT YOUR SENTENCE

Understanding whether you have been charged with a misdemeanor or felony, the degree of the offense, and the maximum sentence for the crime gives you a much better understanding of what you are facing if you have been accused of a crime in Florida; however, there are a number of other factors that can also affect the ultimate sentence that you receive. Only an experienced Florida criminal defense attorney can evaluate the unique facts and circumstances of your case to provide you with an accurate picture of the possible penalties if you are convicted but there are some common factors that go into determining a defendant's sentence when convicted of any crime, including:

- **Criminal History** – your own criminal history, or lack of history, is a major factor in determining your sentence. Many offenses are



required to be charged as a more serious crime, for example, if you have previously been convicted of the same or similar crime. Subjectively, a judge will also take your past criminal history into account when deciding whether to be lenient towards you or sentence you to the maximum allowable sentence.

- **Weapons** – as mentioned previously, many crimes carry harsher penalties, even mandatory minimum sentences, if a weapon was used during the commission of the crime.
- **Quantity/Type** – if you are convicted of a drug offense the quantity and type of drug involved will have a direct effect on your sentence. The larger the quantity, the more time you will likely receive. Likewise, the more “dangerous” the drug (heroin for example) the more likely you are to receive a harsher sentence.
- **Location** – some crimes are enhanced, or raised to a higher level, if committed in certain locations such as close to a school, daycare center, or park where children would likely be present.
- **Victim** – if your crime involved a victim, the victim’s wishes will be considered. A victim who asks for leniency might help you when it comes time for sentencing but there is no guarantee.
- **Cooperation** – if you agree to cooperate with the police and/or with the prosecution it may result in a reduction in your sentence. This could mean that you “snitch” or assist the police to solve another crime or provide information about criminal activity. It can also mean that you cooperate in your own case, thereby saving the state time and money.

Although the foregoing should provide you with enough basic information to understand what you have been charged with and some idea of the possible penalties you are facing it is crucial that you consult with an experienced Florida criminal defense attorney who can evaluate your individual case and provide you with more in-depth information and answers.

Online Sunshine, [2013 Florida Statutes](#)

Florida Sentencing, [Misdemeanors, Felonies, and Common Law Crimes in Florida](#)

## ABOUT THE AUTHORS



**Amanda Powers Sellers**

Florida criminal defense lawyer, Amanda Powers Sellers, has aggressively defended thousands of Florida criminal cases. With over nine years of criminal jury trial experience, she has the necessary background to represent cases ranging from Driving under the Influence (DUI) to

First Degree Murder.

Amanda is a seasoned litigator and an aggressive negotiator. With a wealth of experience she has proven that her gentle, but aggressive style of criminal defense litigation consistently achieves results for her clients.



**Jenna C. Finkelstein**

Florida criminal defense attorney, Jenna Finkelstein, has over sixty (60) criminal jury trials to her credit. Her experience defending individuals charged with crimes in the state of Florida ranges from domestic battery to DUI Manslaughter, Sexual Battery, First Degree Murder and all

crimes in between.

She is passionate about the law and promises personal attention to all of her clients and their individual needs. Jenna is a seasoned trial attorney who knows the legal system and its players. Jenna and her team at the Law Offices of Powers Sellers & Finkelstein, PLC. are committed to fighting for you.

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