

**609.131 CERTIFICATION OF MISDEMEANOR AS PETTY MISDEMEANOR.**

Subdivision 1. **General rule.** Except as provided in subdivision 2, an alleged misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney believes that it is in the interest of justice that the defendant not be imprisoned if convicted and certifies that belief to the court at or before the time of arraignment or pretrial hearing, and the court approves of the certification motion. The defendant's consent to the certification is not required. When an offense is certified as a petty misdemeanor under this section, the defendant's eligibility for court-appointed counsel must be evaluated as though the offense were a misdemeanor.

Subd. 1a. [Repealed, 1993 c 326 art 4 s 40]

Subd. 2. **Certain violations excepted.** Subdivision 1 does not apply to a misdemeanor violation of section 169A.20; 171.09, subdivision 1, paragraph (e); 171.306, subdivision 6; 609.224; 609.2242; 609.226; 609.324, subdivision 3; 609.52; or 617.23, or an ordinance that conforms in substantial part to any of those sections. A violation described in this subdivision must be treated as a misdemeanor unless the defendant consents to the certification of the violation as a petty misdemeanor.

*[See Note.]*

Subd. 3. **Use of conviction for enhancement.** Notwithstanding any other law, a conviction for a violation that was originally charged as a misdemeanor and was treated as a petty misdemeanor under subdivision 1 or the Rules of Criminal Procedure may not be used as the basis for charging a subsequent violation as a gross misdemeanor rather than a misdemeanor.

**History:** 1987 c 329 s 6; 1992 c 513 art 4 s 48; 1995 c 259 art 3 s 8; 2000 c 478 art 2 s 7; 2010 c 366 s 15

**NOTE:** The amendment to subdivision 2 by Laws 2010, chapter 366, section 15, is effective July 1, 2011. Laws 2010, chapter 366, section 15, the effective date.