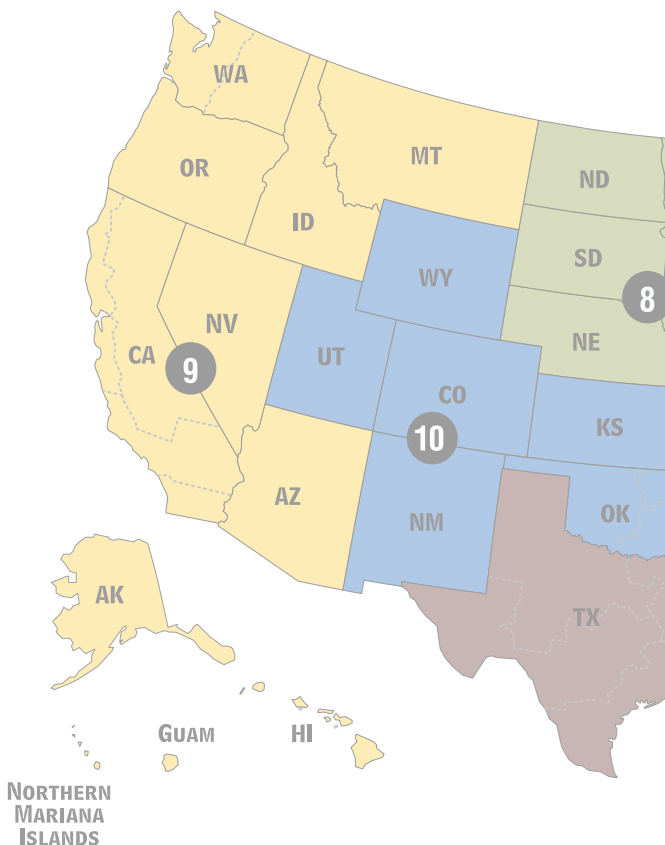




2023 AMENDMENTS IN BRIEF

In April 2023, the U.S. Sentencing Commission promulgated amendments to the federal sentencing guidelines. For a more detailed discussion of the policy determinations made by the Commission, please refer to the *Reason for Amendment* in the “Reader-Friendly” and Official Text (link in QR code).



Amendment #822

Career Offender

This amendment clarifies definitions pertaining to the §4B1.2 Career Offender guideline and addresses application issues regarding the meaning of “robbery” and “extortion,” and the treatment of inchoate offenses.

Specifically, the amendment moves, without change, the definitions including certain inchoate and accessory offenses as well as enumerated offenses (i.e., “forcible sex offense” and “extortion”) and “prior felony conviction” from the §4B1.2 Commentary to the guideline itself.

The amendment adds a definition of “robbery” that mirrors the “robbery” definition at 18 U.S.C. § 1951(b)(1), and revises the definition of “controlled substance offense” in §4B1.2(b) to include new maritime-related offenses.

THE ISSUE

Application of the Career Offender Guideline

Circuit courts have recently all concluded that Hobbs Act robbery does not fall within the §4B1.2 Career Offender guideline definition of “crime of violence” after the Commission’s 2016 amendment adding the definitions of certain offenses.

Separately, the circuit courts are split over whether definitions of “crime of violence” and “controlled substance offense” found in the §4B1.2 Commentary are authoritative, and whether they include inchoate offenses and offenses arising from accomplice liability.



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www.usc.gov
pubaffairs@usc.gov
202-502-4597

