

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission

ACTION: Notice and request for public comment.

SUMMARY: The United States Sentencing Commission is considering promulgating an amendment to the sentencing guidelines, policy statements, and commentary. This notice sets forth the proposed amendment and a synopsis of the issues addressed by the proposed amendment. This notice also sets forth several issues for comment together with the proposed amendment.

DATES: Written public comment regarding the proposed amendment and issues for comment set forth in this notice should be received by the Commission not later than **June 18, 2026**. Public comment regarding the proposed amendment received after the close of the comment period may not be considered.

ADDRESSES: There are two methods for submitting public comment.

Electronic Submission of Comments. Comments may be submitted electronically via the Commission’s Public Comment Submission Portal at <https://comment.ussc.gov>. Follow the online instructions for submitting comments.

Submission of Comments by Mail. Comments may be submitted by mail to the following address: United States Sentencing Commission, One Columbus Circle, N.E., Suite 2-500, Washington, D.C. 20002-8002, Attention: Public Affairs – Proposed Amendment.

FOR FURTHER INFORMATION CONTACT: Jennifer Dukes, Senior Public Affairs Specialist, (202) 502-4597.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

Publication of a proposed amendment requires the affirmative vote of at least three voting members of the Commission and is deemed to be a request for public comment on the proposed amendment. *See* USSC Rules of Practice and Procedure 2.2,

4.4. In contrast, the affirmative vote of at least four voting members is required to promulgate an amendment and submit it to Congress. *See id.* 2.2; 28 U.S.C. 994(p).

The Commission published notices of proposed amendments in the *Federal Register* on December 19, 2025 (*see* 90 FR 59660) and February 6, 2026 (*see* 91 FR 5556). The Commission held public hearings on those proposed amendments in Washington, D.C., on February 17, 2026, and March 9, 2026. Pursuant to 28 U.S.C. § 994 and its emergency authority under section 5017 of the Consolidated Appropriations Act, 2026 (Public Law 119–75), the Commission is now considering promulgating an additional amendment to the sentencing guidelines, policy statements, and commentary. This notice sets forth that proposed amendment.

The proposed amendment as presented in this notice contains specific revisions to the guidelines. It also contains bracketed text indicating a heightened interest on the Commission’s part in comment and suggestions regarding alternative policy choices; for example, a proposed enhancement of [6] levels indicates that the Commission is considering, and invites comment on, alternative policy choices regarding the appropriate level of enhancement. Similarly, bracketed text means that the Commission specifically invites comment on whether the proposed provision is appropriate. Additionally, the Commission has highlighted certain issues for comment and invites suggestions on how the Commission should respond to those issues.

In summary, the proposed amendment and issues for comment set forth in this notice are as follows: A proposed amendment to the *Guidelines Manual* to implement the SAFER SKIES Act (Title LXXXVI of the National Defense Authorization Act for Fiscal Year 2026, Pub. L. 119–60), including (A) two options for setting forth a new guideline at §3B1.6 (Use of Unmanned Aircraft) providing a tiered adjustment for offenses involving the use of an unmanned aircraft; (B) amendments to Appendix A (Statutory Index) to reference the new offenses created by the Act to the most appropriate guidelines; and (C) related issues for comment.

The text of the proposed amendment and related issues for comment are set forth below. Additional information pertaining to the proposed amendment and issues for comment described in this notice may be accessed through the Commission’s website at www.ussc.gov. In addition, as required by 5 U.S.C. 553(b)(4), a plain-language summary of the proposed amendment is available at <https://www.ussc.gov/guidelines/amendments/reader-friendly-version-2026-proposed-amendment-unmanned-aircraft>.

AUTHORITY: 28 U.S.C. 994(a), (o), (p), (x); USSC Rules of Practice and Procedure 2.2, 4.3, 4.4.

Carlton W. Reeves,

Chair.

PROPOSED AMENDMENT TO THE SENTENCING GUIDELINES, POLICY STATEMENTS, AND OFFICIAL COMMENTARY

1. UNMANNED AIRCRAFT

Synopsis of Proposed Amendment: This proposed amendment responds to the SAFER SKIES Act (title LXXXVI of the National Defense Authorization Act for Fiscal Year 2026, Pub. L. 119–60) (the “Act”), which contains several provisions relating to criminal penalties for offenses involving aircraft. *See* Pub. L. 119–60, § 8605 (2025).

The Act creates a felony offense for repeated convictions for violating national defense airspace under 49 U.S.C. § 46307. Section 46307 establishes a criminal offense when an individual knowingly and willfully violates an order issued pursuant to 49 U.S.C. § 40103(b)(3) that restricts or prohibits civil aircraft in certain navigable airspace “in the interest of national defense.” An offense under section 46307 constitutes a Class A misdemeanor, punishable by up to one year in prison. The Act adds to section 46307 a five-year-maximum penalty if a person is convicted of a second or subsequent offense under the section.

The Act also amends the statutory penalties for providing contraband to imprisoned individuals, in violation of 18 U.S.C. § 1791. Section 1791 sets out statutory maximum terms of imprisonment ranging from six months to twenty years depending on the type of contraband object provided to the imprisoned individual. The Act increases the maximum

penalties by five years for individuals convicted under section 1791 who “knowingly used an unmanned aircraft to provide a prohibited object to an inmate of a prison.”

6 U.S.C. § 124n-1(d).

In addition to these specific statutory increases, the Act provides more generally that “[i]f a person who is convicted of a felony offense (other than an offense based solely on the operation of an unmanned aircraft) knowingly operated an unmanned aircraft during, in relation to, or in furtherance of such offense,” the maximum penalty for that offense is doubled or increased by five years, whichever is less. *Id.* § 124n-1(c).

The Act also directs the Sentencing Commission to “promulgate guidelines, or amendments to guidelines, that substantially increase the sentencing range for all offenses involving the use of an unmanned aircraft.” *Id.* § 124n-1(e)(1)(A). Specifically, for offenses in which the enhanced penalties under 6 U.S.C. § 124n-1(c) apply—that is, where the individual knowingly operated an unmanned aircraft during, in relation to, or in furtherance of a felony offense (other than an offense based solely on the operation of an unmanned aircraft)—the guidelines “shall call for an increase of at least 6 levels in the base offense level,” and “in all other cases, the base offense level shall be increased by at least 4 levels.” *Id.* § 124n-1(e)(2).

The proposed amendment would implement these provisions of the Act.

First, the proposed amendment would create a new guideline at §3B1.6 (Use of Unmanned Aircraft) providing a tiered adjustment for offenses involving the use of an unmanned aircraft. The proposed amendment provides two options for the adjustment. Under **Option 1**, an offense would receive a [6]-level increase if the statutory sentencing enhancement under 6 U.S.C. § 124n-1(c) applies. Under **Option 2**, an offense would receive a [6]-level increase if the defendant is convicted of a felony offense that is not based solely on the operation of an unmanned aircraft, and the defendant knowingly operated an unmanned aircraft during, in relation to, or in furtherance of that offense. Under both options, all other offenses involving the use of an unmanned aircraft would receive a [4]-level increase.

Second, the proposed amendment would address the new felony offense for repeated violations of 49 U.S.C. § 46307. Section 46307 is not currently referenced in Appendix A (Statutory Index) to a specific guideline, so a preexisting misdemeanor offense under this section is sentenced under §2X5.2 (Class A Misdemeanors (Not Covered by Another Specific Offense Guideline)). The proposed amendment would amend Appendix A to reference 49 U.S.C. § 46307 to §2A5.2 (Interference with Flight Crew Member or Flight Attendant; Interference with Dispatch, Navigation, Operation, or Maintenance of Mass Transportation Vehicle; Unsafe Operation of Unmanned Aircraft) and §2X5.2. Accordingly, courts would continue to use §2X5.2 for misdemeanor violations of section 46307 and would use §2A5.2 for the new felony violation.

Issues for comment are also provided.

Proposed Amendment:

Chapter Three, Part B is amended by inserting at the end the following new guideline and accompanying commentary:

“§3B1.6. *Use of Unmanned Aircraft*

[Option 1 (6-level increase if statutory enhancement applies):

- (a) (Apply the greater):
 - (1) If a statutory sentencing enhancement under 6 U.S.C. § 124n-1(c) applies, increase by [6] levels.
 - (2) If the offense involved the use of an unmanned aircraft, increase by [4] levels.

- (b) For purposes of this guideline:
 - (1) ‘Unmanned aircraft’ has the meaning given that term in 49 U.S.C. § 44801.

[(2) 'Use' does not include mere possession.]]

[Option 2 (6-level increase regardless of whether statutory enhancement applies):

(a) (Apply the greater):

(1) If the defendant (1) is convicted of a felony offense that is not based solely on the operation of an unmanned aircraft; and (2) knowingly operated an unmanned aircraft during, in relation to, or in furtherance of that offense, increase by [6] levels.

(2) If the offense involved the use of an unmanned aircraft, increase by [4] levels.

(b) For purposes of this guideline:

(1) 'Unmanned aircraft' has the meaning given that term in 49 U.S.C. § 44801.

[(2) 'Use' does not include mere possession.]]

Commentary

Background: This guideline implements the directive in the SAFER SKIES Act (section 8605(e) of the National Defense Authorization Act for Fiscal Year 2026, Pub. L. 119–60).”.

Appendix A (Statutory Index) is amended by inserting before the line referenced to 49 U.S.C. § 46308 the following new line reference:

“49 U.S.C. § 46307 2A5.2, 2X5.2”.

The Commentary to §2A5.2 captioned “Statutory Provisions” is amended by striking “49 U.S.C. §§ 46308, 46503, 46504 (formerly 49 U.S.C. § 1472(c), (j))” and inserting “49 U.S.C. §§ 46307, 46308, 46503, 46504 (formerly 49 U.S.C. § 1472(c), (j))”.

The Commentary to §2X5.2 captioned “Statutory Provisions” is amended by striking “49 U.S.C. § 31310” and inserting “49 U.S.C. §§ 31310, 46307”.

Issues for Comment

1. The SAFER SKIES Act (the “Act”) directs the Commission to “substantially increase the sentencing range for all offenses involving the use of an unmanned aircraft.” 6 U.S.C. § 124n-1(e)(1)(A). The directive specifically calls for “an

increase of at least 6 levels” for cases in which the sentencing enhancements under 6 U.S.C. § 124n-1(c) apply and an increase of “at least 4 levels” in all other cases. *See id.* § 124n-1(e)(2). The proposed amendment would implement this directive by creating an adjustment in new §3B1.6 (Use of Unmanned Aircraft). The Commission seeks comment on whether this is the appropriate approach to implement the directive or whether the Commission should adopt an alternative approach. If so, what should that approach be? Are there any different or additional approaches that would address cases subject to the minimum 4-level increase while ensuring compliance with the directive?

2. In the Act, Congress directs the Commission to provide for “an increase of *at least* 6 levels” for cases in which the sentencing enhancements under 6 U.S.C. § 124n-1(c) apply and an increase of “*at least* 4 levels” in all other cases involving the use of an unmanned aircraft. *See* 6 U.S.C. § 124n-1(e) (emphasis added). The proposed amendment responds to this directive by providing a tiered adjustment, bracketed at 6 and 4 levels, for offenses involving unmanned aircraft. The Commission seeks comment on whether the levels of the adjustment are appropriate or whether the Commission should increase the levels above those required by the directive. If so, at what levels should the Commission set the adjustment?
3. The Commission seeks comment on how the proposed new Chapter Three adjustment should interact with other guidelines that may also account for

conduct involving the use of unmanned aircraft. For example, the specific offense characteristic at §2D1.1(b)(3)(A) (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) applies if the defendant unlawfully imported or exported a controlled substance under circumstances in which “an aircraft other than a regularly scheduled commercial air carrier was used to import or export the controlled substance.” In addition, in some circumstances, the use of an unmanned aircraft could be considered indicative of sophisticated means, *see, e.g.*, §§2B1.1(b)(10)(C) (Theft, Property Destruction, and Fraud), 2T3.1(b)(1) (Evading Import Duties or Restrictions (Smuggling); Receiving or Trafficking in Smuggled Property), or the use of a special skill, *see* §3B1.3 (Abuse of Position of Trust or Use of Special Skill). Are there other guidelines provisions that may apply based on the same conduct as the proposed new Chapter Three adjustment? How should the new adjustment interact with these provisions while ensuring compliance with the congressional directive to “substantially increase the sentencing range for all offenses involving the use of an unmanned aircraft”? Should the proposed amendment preclude or limit the application of any other specific offense characteristic or Chapter Three adjustment if the new §3B1.6 also applies?

4. The Act increases the statutory maximum penalty for an individual convicted under 18 U.S.C. § 1791 who “knowingly used an unmanned aircraft to provide a prohibited object to an inmate of a prison.” 6 U.S.C. § 124n-1(d). Offenses under

section 1791 are referenced to §2P1.2 (Providing or Possessing Contraband in Prison), which provides a range of base offense levels depending on the type of contraband at issue. Under the newly created §3B1.6, an individual subject to the enhanced statutory penalty would be subject to a [6]-level or [4]-level adjustment for the use of an unmanned aircraft. Should the Commission take any additional action to implement the enhanced statutory penalty under 18 U.S.C. § 1791? If so, what action should the Commission take? For example, should the Commission amend §2P1.2 to address cases in which the enhanced statutory penalty under 18 U.S.C. § 1791 applies, or should it provide a special instruction on the application of the new §3B1.6 in such cases?

5. To address the new felony offense under the Act for repeated violations of 49 U.S.C. § 46307, the proposed amendment would amend Appendix A to reference 49 U.S.C. § 46307 to §2A5.2 (Interference with Flight Crew Member or Flight Attendant; Interference with Dispatch, Navigation, Operation, or Maintenance of Mass Transportation Vehicle; Unsafe Operation of Unmanned Aircraft) and §2X5.2 (Class A Misdemeanors (Not Covered by Another Specific Offense Guideline)). The Commission seeks comment on whether the proposed references are appropriate and whether any additional changes to the guidelines are required to account for the new felony offense created by the Act.