



Amendment to the Sentencing Guidelines (Preliminary)

August 27, 2026

This document contains the amendment to the sentencing guidelines, policy statements, and commentary in the unofficial, “reader-friendly” form in which it was made available at the Commission’s public meeting on August 27, 2026. As with all amendments that the Commission has voted to promulgate but has not yet officially submitted to Congress and the Federal Register, authority to make technical and conforming changes may be exercised and motions to reconsider may be made. Once the amendment has been submitted to Congress and the Federal Register, official text of the amendment as submitted will be posted on the Commission’s website at www.ussc.gov and will be available in a forthcoming edition of the Federal Register. In addition, an updated “reader-friendly” version of the amendment will be posted on the Commission’s website at www.ussc.gov.

AMENDMENTS

1. UNMANNED AIRCRAFT

The Commission specified an effective date of **March 15, 2027**, for the amendment listed above.

PROPOSED AMENDMENT: 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 provided to the imprisoned individual. The Act increases the maximum penalty by five years “[i]f a defendant who is convicted under section 1791 . . . 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 of either 6 or 4 levels for offenses involving the use of an unmanned aircraft. Under the proposed amendment, an offense would receive a 6-level increase if the defendant is convicted of an offense to which the

statutory sentencing enhancement under 6 U.S.C. § 124n-1(c) applies, or if the parties stipulate to such an offense for purposes of calculating the guideline range or that the adjustment applies to the offense of conviction.

The proposed amendment would provide a 4-level increase if the offense otherwise involved the use of an unmanned aircraft. The proposed amendment would include a provision expressly stating that “use” does not include mere possession.

Under the proposed amendment, if the use of an unmanned aircraft that forms the basis for an adjustment under the new section is the only conduct that forms the basis for a Chapter Two enhancement or another Chapter Three adjustment, then the court would be instructed to apply the provision that results in the greater offense level.

The proposed amendment would also 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) for felony offenses and §2X5.2 for misdemeanor offenses. Accordingly, courts would continue to use §2X5.2 for misdemeanor violations of section 46307 and would use §2A5.2 for the new felony violation.

Proposed Amendment:

CHAPTER THREE

ADJUSTMENTS

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PART B — ROLE IN THE OFFENSE

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§3B1.6. Use of Unmanned Aircraft

(a) (Apply the greater):

- (1) If (A) the defendant is convicted of an offense to which the statutory enhancement under 6 U.S.C. § 124n-1(c) applies; or (B) the parties stipulate (i) to such an offense for purposes of calculating the guideline range under §1B1.2 (Applicable Guidelines); or (ii) that the adjustment in this subsection applies, increase by **6** levels.
- (2) If the offense otherwise 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.

(c) Special Instruction

- (1) If the use of an unmanned aircraft that forms the basis for an adjustment under this guideline is the only conduct that forms the basis for an enhancement in Chapter Two or another adjustment in Chapter Three, apply the provision that results in the greater offense level.

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).

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APPENDIX A

STATUTORY INDEX

		*	*	*
49 U.S.C. § 32709(b)	2N3.1			
49 U.S.C. § 46307	2A5.2 (for felony offenses), 2X5.2 (for misdemeanor offenses)			
49 U.S.C. § 46308	2A5.2			

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§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

(a) Base Offense Level (Apply the greatest):

- (1) **30**, if the offense involved intentionally endangering the safety of: (A) an airport or an aircraft; or (B) a mass transportation facility or a mass transportation vehicle;
- (2) **18**, if the offense involved recklessly endangering the safety of: (A) an airport or an aircraft; or (B) a mass transportation facility or a mass transportation vehicle;
- (3) if an assault occurred, the offense level from the most analogous assault guideline, §§2A2.1–2A2.4; or
- (4) **9**.

(b) Specific Offense Characteristic

- (1) If (A) subsection (a)(1) or (a)(2) applies; and (B)(i) a firearm was discharged, increase by **5** levels; (ii) a dangerous weapon was otherwise used, increase by **4** levels; or (iii) a dangerous weapon was brandished or its use was threatened, increase by **3** levels. If the resulting offense level is less than level **24**, increase to level **24**.

(c) Cross References

- (1) If death resulted, apply the most analogous guideline from Chapter Two, Part A, Subpart 1 (Homicide), if the resulting offense level is greater than that determined above.

- (2) If the offense involved possession of, or a threat to use (A) a nuclear weapon, nuclear material, or nuclear byproduct material; (B) a chemical weapon; (C) a biological agent, toxin, or delivery system; or (D) a weapon of mass destruction, apply §2M6.1 (Nuclear, Biological, and Chemical Weapons, and Other Weapons of Mass Destruction), if the resulting offense level is greater than that determined above.

Commentary

Statutory Provisions: 18 U.S.C. §§ 39B, 1992(a)(1), (a)(4), (a)(5), (a)(6); 49 U.S.C. §§ 46307, 46308, 46503, 46504 (formerly 49 U.S.C. § 1472(c), (j)). For additional statutory provision(s), *see* Appendix A (Statutory Index).

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§2X5.2. Class A Misdemeanors (Not Covered by Another Specific Offense Guideline)

- (a) Base Offense Level: **6**

Commentary

Statutory Provisions: 10 U.S.C. § 2733a(g)(2); 18 U.S.C. §§ 39B, 1365(f), 1801, 2259(d)(4); 34 U.S.C. § 12593; 49 U.S.C. §§ 31310, 46307. For additional statutory provision(s), *see* Appendix A (Statutory Index).

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