# CHAPTER FIVE

# DETERMINING THE SENTENCING RANGE AND OPTIONS UNDER THE GUIDELINES

| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 2025 (amendment 836). |
|---|---|

### Introductory Commentary

Chapter Five sets forth the steps used to determine the applicable sentencing range and sentencing options based upon the guideline calculations made in Chapters Two through Four. The provisions in this chapter set forth the sentencing requirements and options under the guidelines related to probation, imprisonment, supervision conditions, fines, and restitution for the particular guideline range. For example, for certain categories of offenses and offenders, the guidelines permit the court to impose either imprisonment or some other sanction or combination of sanctions. After applying the provisions of this chapter to determine the sentencing options recommended under the guidelines pursuant to subsection (a) of §1B1.1 (Application Instructions), the court shall consider the other applicable factors in 18 U.S.C. § 3553(a) to determine the length and type of sentence that is sufficient but not greater than necessary. A sentence is within the guidelines if it complies with each applicable section of this chapter.

| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 2025 (amendment 836); November 1, 2026 (amendment 841). |
|---|---|

## PART A — DETERMINATION OF SENTENCING RANGE AND SENTENCING OPTIONS

| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 2026 (amendment 841). |
|---|---|

### Introductory Commentary

By statute, sentencing courts must consider and balance a broad range of factors when determining the appropriate sentence to impose in each individual case. Among these factors, courts are required to consider "all available sentencing options." 18 U.S.C. § 3553(a)(3). Each of the available sentencing options—imprisonment, probation, and fines—serves a punitive function, and the sentencing court must determine the option, or combination of options, that best achieves a sentence "sufficient, but not greater than necessary to comply with the purposes set forth in [18 U.S.C. § 3553(a)(2)]." 18 U.S.C. § 3553(a).

Congress charged the Commission with promulgating guidelines for sentencing courts to use in determining "whether to impose a sentence to probation, a fine, or a term of imprisonment" (*see* 28 U.S.C. § 994(a)(1)(A)). The provisions within Chapter Five, in combination, guide all aspects of determining the appropriate sentence under the guidelines, including the initial determination of sentence type. By clearly delineating the sentencing options available under the guidelines, the Commission intends for Part A of this chapter to assist courts in making this critical decision.

| *Historical Note* | Effective November 1, 2026 (amendment 841). |
|---|---|

## §5A1.1. Sentencing Table

The Sentencing Table is used to determine the applicable sentencing range and sentencing options based upon the guideline calculations made in Chapters Two through Four.

(a) The Offense Level (1–43) forms the vertical axis of the Sentencing Table. The Criminal History Category (I–VI) forms the horizontal axis of the Table. The intersection of the Offense Level and Criminal History Category displays the Guideline Range in months of imprisonment. For example, the guideline range applicable to a defendant with an Offense Level of 15 and a Criminal History Category of III is 24–30 months of imprisonment. For purposes of the Sentencing Table, "***Life***" means life imprisonment.

(b) The Sentencing Table is divided into Zones A, B, C, and D. Each zone provides for different sentencing options for the court's consideration. Subject to any statutory limitations in an individual case (s*ee, e.g.*, §5B1.1(b) (statutory eligibility for probation); §§5G1.1, 5G1.2 (statutory minimums and maximums)), the sentencing options in each zone are as follows:

| | SENTENCING OPTIONS |
|---|---|
| Zone A | • probation;<br>• probation with a period of intermittent confinement, community confinement, or home detention;<br>• a "split sentence" (*i.e.*, part of the term satisfied by imprisonment and the remainder satisfied by a term of supervised release with a condition that substitutes community confinement or home detention for imprisonment, according to the schedule in §5C1.1(e)); or<br>• imprisonment.<br>*See* §5B1.1(a)(1); §5C1.1(b), (e); §5C1.1, comment. (n.2). |
| Zone B | • probation with the minimum term of imprisonment satisfied by a period of intermittent confinement, community confinement, or home detention, according to the schedule in §5C1.1(e);<br>• a "split sentence" (with at least one month satisfied by imprisonment); or<br>• imprisonment.<br>*See* §5B1.1(a)(2); §5C1.1(c), (e); §5C1.1, comment. (n.3). |
| Zone C | • a "split sentence" (with at least one-half of the minimum term satisfied by imprisonment); or<br>• imprisonment.<br>*See* §5C1.1(d), (e); §5C1.1, comment. (n.4). |
| Zone D | • imprisonment.<br>*See* §5C1.1(f). |

(c)

## SENTENCING TABLE
### (in months of imprisonment)

| | Offense Level | Criminal History Category (Criminal History Points) I (0 or 1) | II (2 or 3) | III (4, 5, 6) | IV (7, 8, 9) | V (10, 11, 12) | VI (13 or more) |
|---|---|---|---|---|---|---|---|
| | 1 | 0–6 | 0–6 | 0–6 | 0–6 | 0–6 | 0–6 |
| | 2 | 0–6 | 0–6 | 0–6 | 0–6 | 0–6 | 1–7 |
| | 3 | 0–6 | 0–6 | 0–6 | 0–6 | 2–8 | 3–9 |
| Zone A | 4 | 0–6 | 0–6 | 0–6 | 2–8 | 4–10 | 6–12 |
| | 5 | 0–6 | 0–6 | 1–7 | 4–10 | 6–12 | 9–15 |
| | 6 | 0–6 | 1–7 | 2–8 | 6–12 | 9–15 | 12–18 |
| | 7 | 0–6 | 2–8 | 4–10 | 8–14 | 12–18 | 15–21 |
| | 8 | 0–6 | 4–10 | 6–12 | 10–16 | 15–21 | 18–24 |
| | 9 | 4–10 | 6–12 | 8–14 | 12–18 | 18–24 | 21–27 |
| Zone B | 10 | 6–12 | 8–14 | 10–16 | 15–21 | 21–27 | 24–30 |
| | 11 | 8–14 | 10–16 | 12–18 | 18–24 | 24–30 | 27–33 |
| Zone C | 12 | 10–16 | 12–18 | 15–21 | 21–27 | 27–33 | 30–37 |
| | 13 | 12–18 | 15–21 | 18–24 | 24–30 | 30–37 | 33–41 |
| | 14 | 15–21 | 18–24 | 21–27 | 27–33 | 33–41 | 37–46 |
| | 15 | 18–24 | 21–27 | 24–30 | 30–37 | 37–46 | 41–51 |
| | 16 | 21–27 | 24–30 | 27–33 | 33–41 | 41–51 | 46–57 |
| | 17 | 24–30 | 27–33 | 30–37 | 37–46 | 46–57 | 51–63 |
| | 18 | 27–33 | 30–37 | 33–41 | 41–51 | 51–63 | 57–71 |
| | 19 | 30–37 | 33–41 | 37–46 | 46–57 | 57–71 | 63–78 |
| | 20 | 33–41 | 37–46 | 41–51 | 51–63 | 63–78 | 70–87 |
| | 21 | 37–46 | 41–51 | 46–57 | 57–71 | 70–87 | 77–96 |
| | 22 | 41–51 | 46–57 | 51–63 | 63–78 | 77–96 | 84–105 |
| | 23 | 46–57 | 51–63 | 57–71 | 70–87 | 84–105 | 92–115 |
| | 24 | 51–63 | 57–71 | 63–78 | 77–96 | 92–115 | 100–125 |
| | 25 | 57–71 | 63–78 | 70–87 | 84–105 | 100–125 | 110–137 |
| | 26 | 63–78 | 70–87 | 78–97 | 92–115 | 110–137 | 120–150 |
| | 27 | 70–87 | 78–97 | 87–108 | 100–125 | 120–150 | 130–162 |
| Zone D | 28 | 78–97 | 87–108 | 97–121 | 110–137 | 130–162 | 140–175 |
| | 29 | 87–108 | 97–121 | 108–135 | 121–151 | 140–175 | 151–188 |
| | 30 | 97–121 | 108–135 | 121–151 | 135–168 | 151–188 | 168–210 |
| | 31 | 108–135 | 121–151 | 135–168 | 151–188 | 168–210 | 188–235 |
| | 32 | 121–151 | 135–168 | 151–188 | 168–210 | 188–235 | 210–262 |
| | 33 | 135–168 | 151–188 | 168–210 | 188–235 | 210–262 | 235–293 |
| | 34 | 151–188 | 168–210 | 188–235 | 210–262 | 235–293 | 262–327 |
| | 35 | 168–210 | 188–235 | 210–262 | 235–293 | 262–327 | 292–365 |
| | 36 | 188–235 | 210–262 | 235–293 | 262–327 | 292–365 | 324–405 |
| | 37 | 210–262 | 235–293 | 262–327 | 292–365 | 324–405 | 360–life |
| | 38 | 235–293 | 262–327 | 292–365 | 324–405 | 360–life | 360–life |
| | 39 | 262–327 | 292–365 | 324–405 | 360–life | 360–life | 360–life |
| | 40 | 292–365 | 324–405 | 360–life | 360–life | 360–life | 360–life |
| | 41 | 324–405 | 360–life | 360–life | 360–life | 360–life | 360–life |
| | 42 | 360–life | 360–life | 360–life | 360–life | 360–life | 360–life |
| | 43 | life | life | life | life | life | life |

## Commentary

**Application Notes:**

1. **Total Offense Level.**—In rare cases, a total offense level of less than 1 or more than 43 may result from application of the guidelines. A total offense level of less than 1 is to be treated as an offense level of 1. An offense level of more than 43 is to be treated as an offense level of 43.

2. **Criminal History Category.**—The Criminal History Category is determined by the total criminal history points from Chapter Four, Part A, except as provided in §§4B1.1 (Career Offender) and 4B1.4 (Armed Career Criminal). The total criminal history points associated with each Criminal History Category are shown under each Criminal History Category in the Sentencing Table.

3. **Fine-Only Sentence.**—A fine may be the sole sanction if the guidelines do not require a term of imprisonment. *See* §5E1.2, comment. (n.1).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 270); November 1, 1991 (amendment 418); November 1, 1992 (amendment 462); November 1, 2010 (amendment 738); November 1, 2026 (amendment 841). |

# PART B — PROBATION

### Introductory Commentary

The Comprehensive Crime Control Act of 1984 makes probation a sentence in and of itself. 18 U.S.C. § 3561. Probation may be used as an alternative to incarceration, provided that the terms and conditions of probation can be fashioned so as to meet fully the statutory purposes of sentencing, including promoting respect for law, providing just punishment for the offense, achieving general deterrence, and protecting the public from further crimes by the defendant.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. |

## §5B1.1. Imposition of a Term of Probation

(a) Subject to the statutory restrictions in subsection (b) below, a sentence of probation is authorized if:

(1) the applicable guideline range is in Zone A of the Sentencing Table; or

(2) the applicable guideline range is in Zone B of the Sentencing Table and the court imposes a condition or combination of conditions requiring intermittent confinement, community confinement, or home detention as provided in subsection (c)(3) of §5C1.1 (Imposition of a Term of Imprisonment).

(b) A sentence of probation may not be imposed in the event:

(1) the offense of conviction is a Class A or B felony, 18 U.S.C. § 3561(a)(1);

(2) the offense of conviction expressly precludes probation as a sentence, 18 U.S.C. § 3561(a)(2);

(3) the defendant is sentenced at the same time to a sentence of imprisonment for the same or a different offense, 18 U.S.C. § 3561(a)(3).

### Commentary

**Application Notes:**

1. Except where prohibited by statute or by the guideline applicable to the offense in Chapter Two, the guidelines authorize, but do not require, a sentence of probation in the following circumstances:

(A) **Where the applicable guideline range is in Zone A of the Sentencing Table (*i.e.*, the minimum term of imprisonment specified in the applicable guideline range is zero months).** In such cases, a condition requiring a period of community confinement, home detention, or intermittent confinement may be imposed but is not required.

(B) **Where the applicable guideline range is in Zone B of the Sentencing Table (*i.e.*, the minimum term of imprisonment specified in the applicable guideline range is at least one but not more than nine months).** In such cases, the court may impose probation only if it imposes a condition or combination of conditions requiring a period of community confinement, home detention, or intermittent confinement sufficient to satisfy the minimum term of imprisonment specified in the guideline range. For example, where the offense level is 7 and the criminal history category is II, the guideline range from the Sentencing Table is 2–8 months. In such a case, the court may impose a sentence of probation only if it imposes a condition or conditions requiring at least two months of community confinement, home detention, or intermittent confinement, or a combination of community confinement, home detention, and intermittent confinement totaling at least two months.

2. Where the applicable guideline range is in Zone C or D of the Sentencing Table (*i.e.*, the minimum term of imprisonment specified in the applicable guideline range is ten months or more), the guidelines do not authorize a sentence of probation. *See* §5C1.1 (Imposition of a Term of Imprisonment).

3. **Factors to Be Considered.—**

(A) **Statutory Factors.**—The court, in determining whether to impose a term of probation, and, if a term of probation is to be imposed, in determining the length of the term and the conditions of probation, is required by statute to consider the factors set forth in 18 U.S.C. § 3553(a) to the extent that they are applicable. *See* 18 USC § 3562(a).

(B) **Substance Abuse.**—In a case in which a defendant sentenced to probation is an abuser of controlled substances or alcohol, it is recommended that the court consider imposing a condition requiring the defendant to participate in a program approved by the United States Probation Office for substance abuse may be appropriate. *See* §5B1.3(d)(4).

(C) **Domestic Violence.**—If the defendant is convicted for the first time of a domestic violence crime as defined in 18 U.S.C. § 3561(b), a term of probation is required by statute if the defendant is not sentenced to a term of imprisonment. *See* 18 U.S.C. § 3561(b). Such a defendant is also required by statute to attend an approved rehabilitation program, if available within a 50-mile radius of the legal residence of the defendant. *See* 18 U.S.C. § 3563(a); §5B1.3(a)(4).

(D) **Mental and Emotional Conditions.**—In a case in which a defendant sentenced to probation is in need of psychological or psychiatric treatment, it is recommended that the court consider imposing a condition requiring that the defendant participate in a mental health program approved by the United States Probation Office. *See* §5B1.3(d)(5).

(E) **Education and Vocational Skills.**—Education and vocational skills may be relevant in determining the conditions of probation for rehabilitative purposes, for public protection by restricting activities that allow for the utilization of a certain skill, or in determining the appropriate type of community service.

(F) **Employment Record.**—A defendant's employment record may be relevant in determining the conditions of probation *(e.g.*, the appropriate hours of home detention).

**Background:** This section provides for the imposition of a sentence of probation. The court may sentence a defendant to a term of probation in any case unless (1) prohibited by statute, or (2) where a term of imprisonment is required under §5C1.1 (Imposition of a Term of Imprisonment). Under 18 U.S.C. § 3561(a)(3), the imposition of a sentence of probation is prohibited where the defendant is sentenced at the same time to a sentence of imprisonment for the same or a different offense. Although this provision has effectively abolished the use of "split sentences" imposable pursuant to the former 18 U.S.C. § 3651, the drafters of the Sentencing Reform Act noted that the functional equivalent of the split sentence could be "achieved by a more direct and logically consistent route" by providing that a defendant serve a term of imprisonment followed by a period of supervised release. (S. Rep. No. 225, 98th Cong., 1st Sess. 89 (1983)). Section 5B1.1(a)(2) provides a transition between the circumstances under which a "straight" probationary term is authorized and those where probation is prohibited.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 271 and 302); November 1, 1992 (amendment 462); November 1, 2010 (amendments 738 and 747); November 1, 2025 (amendment 836). |

## §5B1.2. Term of Probation

(a) When probation is imposed, the term shall be:

(1) at least one year but not more than five years if the offense level is **6** or greater;

(2) no more than three years in any other case.

### Commentary

**Background:** This section governs the length of a term of probation. Subject to statutory restrictions, the guidelines provide that a term of probation may not exceed three years if the offense level is less than 6. If a defendant has an offense level of 6 or greater, the guidelines provide that a term of probation be at least one year but not more than five years. Although some distinction in the length of a term of probation is warranted based on the circumstances of the case, a term of probation may also be used to enforce conditions such as fine or restitution payments, or attendance in a program of treatment such as drug rehabilitation. Often, it may not be possible to determine the amount of time required for the satisfaction of such payments or programs in advance. This issue has been resolved by setting forth two broad ranges for the duration of a term of probation depending upon the offense level. Within the guidelines set forth in this section, the determination of the length of a term of probation is within the discretion of the sentencing judge.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987 |

## §5B1.3. Conditions of Probation

(a) MANDATORY CONDITIONS

(1) For any offense, the defendant shall not commit another federal, state or local offense (*see* 18 U.S.C. § 3563(a)).

(2) For a felony, the defendant shall (A) make restitution, (B) work in community service, or (C) both, unless the court has imposed a fine, or unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the discretionary conditions set forth under 18 U.S.C. § 3563(b) (*see* 18 U.S.C. § 3563(a)(2)).

(3) For any offense, the defendant shall not unlawfully possess a controlled substance (*see* 18 U.S.C. § 3563(a)).

(4) For a domestic violence crime as defined in 18 U.S.C. § 3561(b) by a defendant convicted of such an offense for the first time, the defendant shall attend a public, private, or non-profit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is available within a 50-mile radius of the legal residence of the defendant (*see* 18 U.S.C. § 3563(a)).

(5) For any offense, the defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least two periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable information indicates a low risk of future substance abuse by the defendant (*see* 18 U.S.C. § 3563(a)).

(6) The defendant shall (A) make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and (B) pay the assessment imposed in accordance with 18 U.S.C. § 3013. If there is a court-established payment schedule for making restitution or paying the assessment (*see* 18 U.S.C. § 3572(d)), the defendant shall adhere to the schedule.

(7) The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments (*see* 18 U.S.C. § 3563(a)).

(8) If the court has imposed a fine, the defendant shall pay the fine or adhere to a court-established payment schedule (*see* 18 U.S.C. § 3563(a)).

(9) If the defendant is required to register under the Sex Offender Registration and Notification Act, the defendant shall comply with the requirements of that Act (*see* 18 U.S.C. § 3563(a)).

(10) The defendant shall submit to the collection of a DNA sample from the defendant at the direction of the United States Probation Office if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. § 40702).

(b) DISCRETIONARY CONDITIONS

The court may impose other conditions of probation to the extent that such conditions (1) are reasonably related to (A) the nature and circumstances of the offense and the history and characteristics of the defendant; (B) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (C) the need for the sentence imposed to afford adequate deterrence to criminal conduct; (D) the need to protect the public from further crimes of the defendant; and (E) the need to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; and (2) involve only such deprivations of liberty or property as are reasonably necessary for the purposes of sentencing indicated in 18 U.S.C. § 3553(a) (*see* 18 U.S.C. § 3563(b)).

(c) "STANDARD" CONDITIONS (POLICY STATEMENT)

The following "standard" conditions are recommended for probation. Several of the conditions are expansions of the conditions required by statute:

(1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of the time the defendant was sentenced, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.

(2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.

(3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.

(4) The defendant shall answer truthfully the questions asked by the probation officer.

(5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

(6) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.

(7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or the job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

(8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.

(9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.

(10) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (*i.e.*, anything that

was designed, or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or tasers).

(11) The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.

(12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.

(13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

(d) "SPECIAL" CONDITIONS (POLICY STATEMENT)

The following "special" conditions of probation are recommended in the circumstances described and, in addition, may otherwise be appropriate in particular cases:

(1) SUPPORT OF DEPENDENTS

(A) If the defendant has one or more dependents — a condition specifying that the defendant shall support his or her dependents.

(B) If the defendant is ordered by the government to make child support payments or to make payments to support a person caring for a child — a condition specifying that the defendant shall make the payments and comply with the other terms of the order.

(2) DEBT OBLIGATIONS

If an installment schedule of payment of restitution or a fine is imposed — a condition prohibiting the defendant from incurring new credit charges or opening additional lines of credit without approval of the probation officer unless the defendant is in compliance with the payment schedule.

(3) ACCESS TO FINANCIAL INFORMATION

If the court imposes an order of restitution, forfeiture, or notice to victims, or orders the defendant to pay a fine — a condition requiring the defendant to provide the probation officer access to any requested financial information.

(4) SUBSTANCE ABUSE

If the court has reason to believe that the defendant is an abuser of narcotics, other controlled substances or alcohol — (A) a condition requiring the defendant to participate in a program approved by the United States Probation Office for substance abuse, which program may include testing to determine whether the defendant has reverted to the use of drugs or alcohol; and (B) a condition specifying that the defendant shall not use or possess alcohol.

(5) MENTAL HEALTH PROGRAM PARTICIPATION

If the court has reason to believe that the defendant is in need of psychological or psychiatric treatment — a condition requiring that the defendant participate in a mental health program approved by the United States Probation Office.

(6) DEPORTATION

If (A) the defendant and the United States entered into a stipulation of deportation pursuant to section 238(c)(5) of the Immigration and Nationality Act (8 U.S.C. § 1228(c)(5)*); or (B) in the absence of a stipulation of deportation, if, after notice and hearing pursuant to such section, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable — a condition ordering deportation by a United States district court or a United States magistrate judge.

*So in original. Probably should be 8 U.S.C. § 1228(d)(5).

(7) SEX OFFENSES

If the instant offense of conviction is a sex offense—

(A) A condition requiring the defendant to participate in a program approved by the United States Probation Office for the treatment and monitoring of sex offenders.

(B) A condition limiting the use of a computer or an interactive computer service in cases in which the defendant used such items.

(C) A condition requiring the defendant to submit to a search, at any time, with or without a warrant, and by any law enforcement or probation officer, of the defendant's person and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects, upon

reasonable suspicion concerning a violation of a condition of probation or unlawful conduct by the defendant, or by any probation officer in the lawful discharge of the officer's supervision functions.

(e) ADDITIONAL CONDITIONS (POLICY STATEMENT)

The following "special conditions" may be appropriate on a case-by-case basis:

(1) COMMUNITY CONFINEMENT

Residence in a community treatment center, halfway house or similar facility may be imposed as a condition of probation. *See* §5F1.1 (Community Confinement).

(2) HOME DETENTION

Home detention may be imposed as a condition of probation but only as a substitute for imprisonment. *See* §5F1.2 (Home Detention).

(3) COMMUNITY SERVICE

Community service may be imposed as a condition of probation. *See* §5F1.3 (Community Service).

(4) OCCUPATIONAL RESTRICTIONS

Occupational restrictions may be imposed as a condition of probation. *See* §5F1.5 (Occupational Restrictions).

(5) CURFEW

A condition imposing a curfew may be imposed if the court concludes that restricting the defendant to his place of residence during evening and nighttime hours is necessary to provide just punishment for the offense, to protect the public from crimes that the defendant might commit during those hours, or to assist in the rehabilitation of the defendant. Electronic monitoring may be used as a means of surveillance to ensure compliance with a curfew order.

(6) INTERMITTENT CONFINEMENT

Intermittent confinement (custody for intervals of time) may be ordered as a condition of probation during the first year of probation. *See* §5F1.8 (Intermittent Confinement).

**Commentary**

**Application Notes:**

1. **Application of Subsection (c)(4).**—Although the condition in subsection (c)(4) requires the defendant to "answer truthfully" the questions asked by the probation officer, a defendant's legitimate invocation of the Fifth Amendment privilege against self-incrimination in response to a probation officer's question shall not be considered a violation of this condition.

2. **Application of Subsection (d)(7).**—For purposes of subsection (d)(7):

"***Sex offense***" means (A) an offense, perpetrated against a minor, under (i) chapter 109A of title 18, United States Code; (ii) chapter 110 of such title, not including a recordkeeping offense; (iii) chapter 117 of such title, not including transmitting information about a minor or filing a factual statement about an alien individual; (iv) an offense under 18 U.S.C. § 1201; or (v) an offense under 18 U.S.C. § 1591; or (B) an attempt or a conspiracy to commit any offense described in subparagraphs (A)(i) through (v) of this note. Such term does not include an offense under 18 U.S.C. § 2250 (Failure to register).

"***Minor***" means (A) an individual who had not attained the age of 18 years; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 18 years; and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a participant that the officer had not attained the age of 18 years.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 273, 274, and 302); November 1, 1997 (amendment 569); November 1, 1998 (amendment 584); November 1, 2000 (amendment 605); November 1, 2001 (amendment 615); November 1, 2002 (amendment 644); November 1, 2004 (amendment 664); November 1, 2007 (amendments 701 and 711); November 1, 2009 (amendment 733); November 1, 2016 (amendment 803); November 1, 2018 (amendment 813); November 1, 2025 (amendment 835). |

## §5B1.4. [Deleted]

| | |
|---|---|
| *Historical Note* | Section 5B1.4 (Recommended Conditions of Probation and Supervised Release (Policy Statement)), effective November 1, 1987, and amended effective November 1, 1989 (amendments 271, 272, and 302), was deleted by consolidation with §§5B1.3 and 5D1.3 effective November 1, 1997 (amendment 569). |

# PART C — IMPRISONMENT

## §5C1.1. Imposition of a Term of Imprisonment

(a) A sentence conforms with the guidelines for imprisonment if it is within the minimum and maximum terms of the applicable guideline range.

(b) If the applicable guideline range is in Zone A of the Sentencing Table, a sentence of imprisonment is not required, unless the applicable guideline in Chapter Two expressly requires such a term.

(c) If the applicable guideline range is in Zone B of the Sentencing Table, the minimum term may be satisfied by—

(1) a sentence of imprisonment; or

(2) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in subsection (e), provided that at least one month is satisfied by imprisonment; or

(3) a sentence of probation that includes a condition or combination of conditions that substitute intermittent confinement, community confinement, or home detention for imprisonment according to the schedule in subsection (e).

(d) If the applicable guideline range is in Zone C of the Sentencing Table, the minimum term may be satisfied by—

(1) a sentence of imprisonment; or

(2) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in subsection (e), provided that at least one-half of the minimum term is satisfied by imprisonment.

(e) Schedule of Substitute Punishments:

(1) One day of intermittent confinement in prison or jail for one day of imprisonment (each 24 hours of confinement is credited as one day of intermittent confinement, provided, however, that one day shall be credited for any calendar day during which the defendant is employed in the community and confined during all remaining hours);

(2) One day of community confinement (residence in a community treatment center, halfway house, or similar residential facility) for one day of imprisonment;

(3) One day of home detention for one day of imprisonment.

(f) If the applicable guideline range is in Zone D of the Sentencing Table, the minimum term shall be satisfied by a sentence of imprisonment.

**Commentary**

**Application Notes:**

1. **Application of Subsection (a).**—Subsection (a) provides that a sentence conforms with the guidelines for imprisonment if it is within the minimum and maximum terms of the applicable guideline range specified in the Sentencing Table in Part A of this chapter. For example, if the defendant has an Offense Level of 20 and a Criminal History Category of I, the applicable guideline range is 33–41 months of imprisonment. Therefore, a sentence of imprisonment of at least thirty-three months, but not more than forty-one months, is within the applicable guideline range.

2. **Application of Subsection (b).**—Subsection (b) provides that where the applicable guideline range is in Zone A of the Sentencing Table (*i.e.*, the minimum term of imprisonment specified in the applicable guideline range is zero months), the court is not required to impose a sentence of imprisonment unless a sentence of imprisonment or its equivalent is specifically required by the guideline applicable to the offense. Where imprisonment is not required, the court, for example, may impose a sentence of probation. In some cases, a fine appropriately may be imposed as the sole sanction.

3. **Application of Subsection (c).**—Subsection (c) provides that where the applicable guideline range is in Zone B of the Sentencing Table (*i.e.*, the minimum term of imprisonment specified in the applicable guideline range is at least one but not more than nine months), the court has three options:

   (A) It may impose a sentence of imprisonment.

   (B) It may impose a sentence of probation provided that it includes a condition of probation requiring a period of intermittent confinement, community confinement, or home detention, or combination of intermittent confinement, community confinement, and home detention, sufficient to satisfy the minimum period of imprisonment specified in the guideline range. For example, where the guideline range is 4–10 months, a sentence of probation with a condition requiring at least four months of intermittent confinement, community confinement, or home detention would satisfy the minimum term of imprisonment specified in the guideline range.

   (C) Or, it may impose a sentence of imprisonment that includes a term of supervised release with a condition that requires community confinement or home detention. In such case, at least one month must be satisfied by actual imprisonment and the remainder of the minimum term specified in the guideline range must be satisfied by community confinement or home detention. For example, where the guideline range is 4–10 months, a sentence of imprisonment of one month followed by a term of supervised release with a condition requiring three months of community confinement or home detention would satisfy the minimum term of imprisonment specified in the guideline range.

The preceding examples illustrate sentences that satisfy the minimum term of imprisonment required by the guideline range. The court, of course, may impose a sentence at a higher point within the applicable guideline range. For example, where the guideline range is 4–10 months, both a sentence of probation with a condition requiring six months of community confinement or home detention (under subsection (c)(3)) and a sentence of two months imprisonment followed by a term of supervised release with a condition requiring four months of community confinement or home detention (under subsection (c)(2)) would be within the guideline range.

4. **Application of Subsection (d).**—Subsection (d) provides that where the applicable guideline range is in Zone C of the Sentencing Table (*i.e.*, the minimum term specified in the applicable guideline range is ten or twelve months), the court has two options:

   (A) It may impose a sentence of imprisonment.

   (B) Or, it may impose a sentence of imprisonment that includes a term of supervised release with a condition requiring community confinement or home detention. In such case, at least one-half of the minimum term specified in the guideline range must be satisfied by imprisonment, and the remainder of the minimum term specified in the guideline range must be satisfied by community confinement or home detention. For example, where the guideline range is 10–16 months, a sentence of five months imprisonment followed by a term of supervised release with a condition requiring five months community confinement or home detention would satisfy the minimum term of imprisonment required by the guideline range.

   The preceding example illustrates a sentence that satisfies the minimum term of imprisonment required by the guideline range. The court, of course, may impose a sentence at a higher point within the guideline range. For example, where the guideline range is 10–16 months, both a sentence of five months imprisonment followed by a term of supervised release with a condition requiring six months of community confinement or home detention (under subsection (d)), and a sentence of ten months imprisonment followed by a term of supervised release with a condition requiring four months of community confinement or home detention (also under subsection (d)) would be within the guideline range.

5. **Application of Subsection (e).**—Subsection (e) sets forth a schedule of imprisonment substitutes.

6. **Use of Substitutes for Imprisonment.**—The use of substitutes for imprisonment as provided in subsections (c) and (d) is not recommended for most defendants with a criminal history category of III or above.

7. **Residential Treatment Program.**—In a case in which community confinement in a residential treatment program is imposed to accomplish a specific treatment purpose, the court should consider the effectiveness of the residential treatment program.

8. **Application of Subsection (f).**—Subsection (f) provides that, where the applicable guideline range is in Zone D of the Sentencing Table (*i.e.*, the minimum term of imprisonment specified in the applicable guideline range is 15 months or more), the minimum term must be satisfied by a sentence of imprisonment without the use of any of the imprisonment substitutes in subsection (e).

9. **Zero-Point Offenders in Zones A and B of the Sentencing Table.**—If the defendant received an adjustment under §4C1.1 (Adjustment for Certain Zero-Point Offenders) and the defendant's applicable guideline range is in Zone A or B of the Sentencing Table, a sentence other

than a sentence of imprisonment, in accordance with subsection (b) or (c)(3), is generally appropriate. *See* 28 U.S.C. § 994(j).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective January 15, 1988 (amendment 51); November 1, 1989 (amendments 271, 275, and 302); November 1, 1992 (amendment 462); November 1, 2002 (amendment 646); November 1, 2009 (amendment 733); November 1, 2010 (amendment 738); November 1, 2018 (amendment 811); November 1, 2023 (amendments 821 and 824); November 1, 2025 (amendment 836). |

## §5C1.2. Limitation on Applicability of Statutory Minimum Sentences in Certain Cases

(a) Except as provided in subsection (b), in the case of an offense under 21 U.S.C. § 841, § 844, § 846, § 960, or § 963, or 46 U.S.C. § 70503 or § 70506, the court shall impose a sentence in accordance with the applicable guidelines without regard to any statutory minimum sentence, if the court finds that the defendant meets the criteria in 18 U.S.C. § 3553(f)(1)–(5) as follows:

(1) the defendant does not have—

(A) more than 4 criminal history points, excluding any criminal history points resulting from a 1-point offense, as determined under the sentencing guidelines;

(B) a prior 3-point offense, as determined under the sentencing guidelines; and

(C) a prior 2-point violent offense, as determined under the sentencing guidelines;

(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

(3) the offense did not result in death or serious bodily injury to any person;

(4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines and was not engaged in a continuing criminal enterprise, as defined in 21 U.S.C. § 848; and

(5) not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to

provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

(b) In the case of a defendant (1) who meets the criteria set forth in subsection (a); and (2) for whom the statutorily required minimum sentence is at least five years, the applicable guideline range shall not be less than 24 to 30 months of imprisonment.

**Commentary**

**Application Notes:**

1. **Definitions.—**

(A) The term "***violent offense***" means a "crime of violence," as defined in 18 U.S.C. § 16, that is punishable by imprisonment.

(B) "***Dangerous weapon***" and "***firearm***," as used in subsection (a)(2), and "***serious bodily injury***," as used in subsection (a)(3), are defined in the Commentary to §1B1.1 (Application Instructions).

(C) "***Offense***," as used in subsection (a)(2)–(4), and "***offense or offenses that were part of the same course of conduct or of a common scheme or plan***," as used in subsection (a)(5), mean the offense of conviction and all relevant conduct.

2. **Application of subsection (a)(2).—**Consistent with §1B1.3 (Relevant Conduct), the term "***defendant***," as used in subsection (a)(2), limits the accountability of the defendant to his own conduct and conduct that he aided or abetted, counseled, commanded, induced, procured, or willfully caused.

3. **Application of Subsection (a)(4).—**

(A) **"Organizer, leader, manager, or supervisor of others in the offense".—**The first prong of subsection (a)(4) requires that the defendant was not subject to an adjustment for an aggravating role under §3B1.1 (Aggravating Role).

(B) **"Engaged in a continuing criminal enterprise".—**"***Engaged in a continuing criminal enterprise***," as used in subsection (a)(4), is defined in 21 U.S.C. § 848(c). As a practical matter, it should not be necessary to apply this prong of subsection (a)(4) because (i) this section does not apply to a conviction under 21 U.S.C. § 848, and (ii) any defendant who "engaged in a continuing criminal enterprise" but is convicted of an offense to which this section applies will be an "organizer, leader, manager, or supervisor of others in the offense."

4. **Use of Information Disclosed under Subsection (a).—**Information disclosed by a defendant under subsection (a) may not be used to enhance the sentence of the defendant unless the information relates to a violent offense, as defined in Application Note 1(A).

5. **Government's Opportunity to Make Recommendation.—**Under 18 U.S.C. § 3553(f), prior to its determination, the court shall afford the government an opportunity to make a recommendation. *See also* Fed. R. Crim. P. 32(f), (i).

6. **Exemption from Otherwise Applicable Statutory Minimum Sentences.**—A defendant who meets the criteria under this section is exempt from any otherwise applicable statutory minimum sentence of imprisonment and statutory minimum term of supervised release.

**Background:** This section sets forth the relevant provisions of 18 U.S.C. § 3553(f), as added by section 80001(a) of the Violent Crime Control and Law Enforcement Act of 1994 and subsequently amended, which limit the applicability of statutory minimum sentences in certain cases. Under the authority of section 80001(b) of that Act, the Commission has promulgated application notes to provide guidance in the application of 18 U.S.C. § 3553(f). *See also* H. Rep. No. 460, 103d Cong., 2d Sess. 3 (1994) (expressing intent to foster greater coordination between mandatory minimum sentencing and the sentencing guideline system).

| | |
|---|---|
| *Historical Note* | Effective September 23, 1994 (amendment 509). Amended effective November 1, 1995 (amendment 515); November 1, 1996 (amendment 540); November 1, 1997 (amendment 570); November 1, 2001 (amendment 624); October 27, 2003 (amendment 651); November 1, 2004 (amendment 674); November 1, 2009 (amendment 736); November 1, 2023 (amendment 817). |

# PART D — SUPERVISED RELEASE

### Introductory Commentary

The Sentencing Reform Act of 1984 requires the court to assess a wide range of factors "in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release." 18 U.S.C. § 3583(c). These determinations aim to make the imposition and scope of supervised release "dependent on the needs of the defendant for supervision." *See* S. Rep. No. 225, 98th Cong., 1st Sess. 124 (1983). In conducting such an individualized assessment, the court can "assure that [those] who will need post-release supervision will receive it" while "prevent[ing] probation system resources from being wasted on supervisory services for releasees who do not need them." *Id*. at 54; *see also Johnson v. United States,* 529 U.S. 694, 709 (2000) ("Supervised release departed from the parole system it replaced by giving district courts the freedom to provide postrelease supervision for those, and only those, who needed it . . . . Congress aimed, then, to use the district courts' discretionary judgment to allocate supervision to those releasees who needed it most."). Supervised release "fulfills rehabilitative ends, distinct from those served by incarceration." *United States v. Johnson*, 529 U.S. 53, 59 (2000). Accordingly, a court should consider whether the defendant needs supervision in order to ease transition into the community or to provide further rehabilitation and whether supervision will promote public safety. *See* 18 U.S.C. §§ 3583(c), 3553(a)(2)(C)); *see also* S. Rep. No. 225, 98th Cong., 1st Sess. 124 (1983) (indicating that a "primary goal of [a term of supervised release] is to ease the defendant's transition into the community after the service of a long prison term for a particularly serious offense, or to provide rehabilitation to a defendant who has spent a fairly short period in prison for punishment or other purposes but still needs supervision and training programs after release").

| *Historical Note* | Effective November 1, 2025 (amendment 835). |
|---|---|

## §5D1.1. Imposition of a Term of Supervised Release

(a) The court shall order a term of supervised release to follow imprisonment when required by statute (*see* 18 U.S.C. § 3583(a)).

(b) When a term of supervised release is not required by statute, the court should order a term of supervised release to follow imprisonment when warranted by an individualized assessment of the need for supervision.

(c) The court ordinarily should not impose a term of supervised release in a case in which supervised release is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment.

(d) The court should state in open court the reasons for imposing or not imposing a term of supervised release. *See* 18 U.S.C. § 3553(c).

## Commentary

**Application Notes:**

1. **Individualized Assessment.**—The statutory framework of supervised release aims to "assure that [those] who will need post-release supervision will receive it" while "prevent[ing] probation system resources from being wasted on supervisory services for releasees who do not need them." *See* S. Rep. No. 225, 98th Cong., 1st Sess. 54 (1983). To that end, 18 U.S.C. § 3583(c) requires the court to, "in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release," consider the following:

   (A) the nature and circumstances of the offense and the history and characteristics of the defendant (18 U.S.C. § 3553(a)(1));

   (B) the need to afford adequate deterrence to criminal conduct, to protect the public from further crimes of the defendant, and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(B)–(D));

   (C) the kinds of sentence and the sentencing range established for the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines (18 U.S.C. § 3553(a)(4));

   (D) any pertinent policy statement issued by the Sentencing Commission (18 U.S.C. § 3553(a)(5));

   (E) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct (18 U.S.C. § 3553(a)(6)); and

   (F) the need to provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7)).

   *See* 18 U.S.C. § 3583(c).

2. **Criminal History.**—The court should give particular consideration to the defendant's criminal history (which is one aspect of the "history and characteristics of the defendant" in Application Note 1(A) above). In general, the more serious the defendant's criminal history, the greater the need for supervised release.

3. **Substance Abuse.**—In a case in which a defendant sentenced to imprisonment is an abuser of controlled substances or alcohol, it is highly recommended that a term of supervised release also be imposed. *See* §5D1.3(b)(3)(D).

4. **Domestic Violence.**—If the defendant is convicted for the first time of a domestic violence crime as defined in 18 U.S.C. § 3561(b), a term of supervised release is required by statute. *See* 18 U.S.C. § 3583(a). Such a defendant is also required by statute to attend an approved rehabilitation program, if available within a 50-mile radius of the legal residence of the defendant. *See* 18 U.S.C. § 3583(d); §5D1.3(a)(3). In any other case involving domestic violence or stalking in which the defendant is sentenced to imprisonment, it is highly recommended that a term of supervised release also be imposed.

5. **Mental and Emotional Conditions.**—In a case in which a defendant sentenced to imprisonment is in need of psychological or psychiatric treatment, it is recommended that the court consider imposing a condition requiring that the defendant participate in a mental health program approved by the United States Probation Office. *See* §5D1.3(b)(3)(E).

6. **Education and Vocational Skills.**—Education and vocational skills may be relevant in determining the conditions of supervised release for rehabilitative purposes, for public protection by restricting activities that allow for the utilization of a certain skill, or in determining the appropriate type of community service.

7. **Employment Record.**—A defendant's employment record may be relevant in determining the conditions of supervised release *(e.g.*, the appropriate hours of home detention).

8. **Community Confinement or Home Detention Following Imprisonment.**—A term of supervised release must be imposed if the court wishes to impose a "split sentence" under which the defendant serves a term of imprisonment followed by a period of community confinement or home detention pursuant to subsection (c)(2) or (d)(2) of §5C1.1 (Imposition of a Term of Imprisonment). In such a case, the period of community confinement or home detention is imposed as a condition of supervised release.

9. **Application of Subsection (c).**—In a case in which the defendant is a deportable alien specified in subsection (c) and supervised release is not required by statute, the court ordinarily should not impose a term of supervised release. Unless such a defendant legally returns to the United States, supervised release is unnecessary. If such a defendant illegally returns to the United States, the need to afford adequate deterrence and protect the public ordinarily is adequately served by a new prosecution. The court should, however, consider imposing a term of supervised release on such a defendant if the court determines it would provide an added measure of deterrence and protection based on the facts and circumstances of a particular case.

10. **Evidence-Based Recidivism Reduction Programming.**—Whether a defendant's sentence includes a term of supervised release may impact the application of time credits earned by the defendant under the First Step Act of 2018, Pub. L. 115–391. The First Step Act of 2018 allows individuals in custody who successfully complete evidence-based recidivism reduction programming or productive activities to earn time credits. *See* 18 U.S.C. § 3632(d)(4)(A). Regarding the application of those time credits, the First Step Act of 2018 provides: "If the sentencing court included as a part of the prisoner's sentence a requirement that the prisoner be placed on a term of supervised release after imprisonment pursuant to [18 U.S.C. § 3583], the Director of the Bureau of Prisons may transfer the prisoner to begin any such term of supervised release at an earlier date, not to exceed 12 months, based on the application of time credits under [18 U.S.C. § 3632]." 18 U.S.C. § 3624(g)(3).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 302); November 1, 1995 (amendment 529); November 1, 2010 (amendment 747); November 1, 2011 (amendment 756); November 1, 2014 (amendment 781); November 1, 2025 (amendments 835 and 836). |

## §5D1.2. Term of Supervised Release

(a) If a term of supervised release is ordered, the court shall conduct an individualized assessment to determine the length of the term, which shall not be less than any statutorily required minimum term. Except as otherwise provided by statute, the maximum term of supervised release is as follows:

(1) Not more than five years for a defendant convicted of a Class A or B felony. *See* 18 U.S.C. § 3583(b)(1).

(2) Not more than three years for a defendant convicted of a Class C or D felony. *See* 18 U.S.C. § 3583(b)(2).

(3) Not more than one year for a defendant convicted of a Class E felony or a misdemeanor (other than a petty offense). *See* 18 U.S.C. § 3583(b)(3).

(b) The court should state in open court the reasons for the length of the term imposed. *See* 18 U.S.C. § 3553(c).

## Commentary

**Application Notes:**

1. **Individualized Assessment.**—When conducting an individualized assessment to determine the length of a term of supervised release, the factors to be considered are the same as the factors considered in determining whether to impose such a term. *See* 18 U.S.C. § 3583(c); Application Note 1 to §5D1.1 (Imposition of a Term of Supervised Release). The court should ensure that the term imposed on the defendant is sufficient, but not greater than necessary, to address the purposes of imposing supervised release on the defendant.

2. **Terrorism and Sex Offenses.**—Congress has authorized a term of supervised release that exceeds the maximum terms described in subsection (a) for certain serious offenses. *See* 18 U.S.C. § 3583(j), (k). For certain terrorism offenses, the authorized term of supervised release is any term of years or life. 18 U.S.C. § 3583(j). For certain sex offenses, the authorized term of supervised release is any term of years not less than five, or up to life. 18 U.S.C. § 3583(k).

3. **Drug Offenses.**—For certain drug offenses, Congress has established statutory minimum terms of supervised release. *See, e.g.*, 21 U.S.C. §§ 841(b), 960(b) (providing minimum terms of supervised release depending on drug type and quantity and criminal history).

4. **Safety Valve Cases.**—A defendant who qualifies under §5C1.2 (Limitation on Applicability of Statutory Minimum Sentence in Certain Cases) is not subject to any statutory minimum sentence of supervised release. *See* 18 U.S.C. § 3553(f). In such a case, the term of supervised release is determined under subsection (a).

5. **Substantial Assistance Cases.**—Upon motion of the Government, a defendant who has provided substantial assistance in the investigation or prosecution of another person who has committed an offense may be sentenced to a term of supervised release that is less than any minimum required by statute. *See* 18 U.S.C. § 3553(e), §5K1.1 (Substantial Assistance to Authorities).

6. **Early Termination and Extension.**—The court has authority to terminate or extend a term of supervised release. *See* 18 U.S.C. § 3583(e)(1), (2); §5D1.4 (Modification, Early Termination, and Extension of Supervised Release (Policy Statement)).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective January 15, 1988 (amendment 52); November 1, 1989 (amendment 302); November 1, 1995 (amendment 529); November 1, 1997 (amendment 570); November 1, 2001 (amendment 615); November 1, 2002 (amendments 637 and 646); November 1, 2004 (amendment 664); November 1, 2005 (amendment 679); November 1, 2007 (amendment 701); November 1, 2009 (amendment 736); November 1, 2011 (amendment 756); November 1, 2014 (amendment 786); November 1, 2025 (amendment 835). |

## §5D1.3. Conditions of Supervised Release

(a) MANDATORY CONDITIONS

(1) The defendant shall not commit another federal, state or local offense (*see* 18 U.S.C. § 3583(d)).

(2) The defendant shall not unlawfully possess a controlled substance (*see* 18 U.S.C. § 3583(d)).

(3) The defendant who is convicted for a domestic violence crime as defined in 18 U.S.C. § 3561(b) for the first time shall attend a public, private, or private non-profit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is available within a 50-mile radius of the legal residence of the defendant (*see* 18 U.S.C. § 3583(d)).

(4) The defendant shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on supervised release and at least two periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable information indicates a low risk of future substance abuse by the defendant (*see* 18 U.S.C. § 3583(d)).

(5) If a fine is imposed and has not been paid upon release to supervised release, the defendant shall adhere to an installment schedule to pay that fine (*see* 18 U.S.C. § 3624(e)).

(6) The defendant shall (A) make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A, or any other statute authorizing a sentence of restitution; and (B) pay the assessment imposed in accordance with 18 U.S.C. § 3013. If there is a court-established payment schedule for making restitution or paying the assessment (*see* 18 U.S.C. § 3572(d)), the defendant shall adhere to the schedule.

(7) If the defendant is required to register under the Sex Offender Registration and Notification Act, the defendant shall comply with the requirements of that Act (*see* 18 U.S.C. § 3583(d)).

(8) The defendant shall submit to the collection of a DNA sample from the defendant at the direction of the United States Probation Office if the collection of such a sample is authorized pursuant to section 3 of

the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. § 40702).

(b) DISCRETIONARY CONDITIONS

(1) IN GENERAL.—The court should conduct an individualized assessment to determine what, if any, other conditions of supervised release are warranted.

Such conditions are warranted to the extent that they (A) are reasonably related to (i) the nature and circumstances of the offense and the history and characteristics of the defendant; (ii) the need for the sentence imposed to afford adequate deterrence to criminal conduct; (iii) the need to protect the public from further crimes of the defendant; and (iv) the need to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; and (B) involve no greater deprivation of liberty than is reasonably necessary for the purposes set forth above and are consistent with any pertinent policy statements issued by the Sentencing Commission. *See* 18 U.S.C. § 3583(d).

(2) "STANDARD" CONDITIONS (POLICY STATEMENT)

The following are "standard" conditions of supervised release, which the court may modify, expand, or omit in appropriate cases:

(A) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.

(B) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.

(C) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.

(D) The defendant shall answer truthfully the questions asked by the probation officer.

(E) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or

anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

(F) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.

(G) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or the job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

(H) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.

(I) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.

(J) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (*i.e.*, anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or tasers).

(K) The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.

(L) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.

(M) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

(3) "SPECIAL" CONDITIONS (POLICY STATEMENT)

One or more conditions from the following non-exhaustive list of "special" conditions of supervised release may be appropriate in a particular case, including in the circumstances described therein:

(A) SUPPORT OF DEPENDENTS

(i) If the defendant has one or more dependents — a condition specifying that the defendant shall support his or her dependents.

(ii) If the defendant is ordered by the government to make child support payments or to make payments to support a person caring for a child — a condition specifying that the defendant shall make the payments and comply with the other terms of the order.

(B) DEBT OBLIGATIONS

If an installment schedule of payment of restitution or a fine is imposed — a condition prohibiting the defendant from incurring new credit charges or opening additional lines of credit without approval of the probation officer unless the defendant is in compliance with the payment schedule.

(C) ACCESS TO FINANCIAL INFORMATION

If the court imposes an order of restitution, forfeiture, or notice to victims, or orders the defendant to pay a fine — a condition requiring the defendant to provide the probation officer access to any requested financial information.

(D) SUBSTANCE ABUSE

If the court has reason to believe that the defendant is an abuser of narcotics, other controlled substances or alcohol — (i) a condition requiring the defendant to participate in a program approved by the United States Probation Office for substance abuse, which program may include testing to determine whether the defendant has reverted to the use of drugs or alcohol; and (ii) a condition specifying that the defendant shall not use or possess alcohol. If participation in a substance abuse program is required, the length of the term of supervised release should take into account the length of time necessary for the probation office to judge the success of the program.

(E) MENTAL HEALTH PROGRAM PARTICIPATION

If the court has reason to believe that the defendant is in need of psychological or psychiatric treatment — a condition requiring that the defendant participate in a mental health program approved by the United States Probation Office.

(F) DEPORTATION

If (i) the defendant and the United States entered into a stipulation of deportation pursuant to section 238(c)(5) of the Immigration and Nationality Act (8 U.S.C. § 1228(c)(5)*); or (ii) in the absence of a stipulation of deportation, if, after notice and hearing pursuant to such section, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable — a condition ordering deportation by a United States district court or a United States magistrate judge.

*So in original. Probably should be 8 U.S.C. § 1228(d)(5).

(G) SEX OFFENSES

If the instant offense of conviction is a sex offense—

(i) A condition requiring the defendant to participate in a program approved by the United States Probation Office for the treatment and monitoring of sex offenders.

(ii) A condition limiting the use of a computer or an interactive computer service in cases in which the defendant used such items.

(iii) A condition requiring the defendant to submit to a search, at any time, with or without a warrant, and by any law enforcement or probation officer, of the defendant's person and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects upon reasonable suspicion concerning a violation of a condition of supervised release or unlawful conduct by the defendant, or by any probation officer in the lawful discharge of the officer's supervision functions.

(iv) A condition prohibiting the defendant from communicating, or otherwise interacting, with any victim of the offense, either directly or through someone else.

(H) UNPAID RESTITUTION, FINES, OR SPECIAL ASSESSMENTS

If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

(I) EDUCATIONAL OR VOCATIONAL TRAINING

If the court has reason to believe that a course of study or vocational training would be appropriate and would equip the defendant for suitable employment, a condition specifying that the defendant participate in a General Education Development (or similar) program, vocational training, or skills training, unless the probation officer excuses the defendant from doing so.

(J) VICTIM CONTACT

If there is an identifiable victim of the offense, a condition prohibiting the defendant from communicating, or otherwise interacting, with any of the victims, either directly or through someone else.

(K) COMMUNITY CONFINEMENT

Residence in a community treatment center, halfway house or similar facility may be imposed as a condition of supervised release. *See* §5F1.1 (Community Confinement).

(L) HOME DETENTION

Home detention may be imposed as a condition of supervised release, but only as a substitute for imprisonment. *See* §5F1.2 (Home Detention).

(M) COMMUNITY SERVICE

Community service may be imposed as a condition of supervised release. *See* §5F1.3 (Community Service).

(N) OCCUPATIONAL RESTRICTIONS

Occupational restrictions may be imposed as a condition of supervised release. *See* §5F1.5 (Occupational Restrictions).

(O) CURFEW

A condition imposing a curfew may be imposed if the court concludes that restricting the defendant to his place of residence during evening and nighttime hours is necessary to protect the public from crimes that the defendant might commit during those hours, or to assist in the rehabilitation of the defendant. Electronic monitoring may be used as a means of surveillance to ensure compliance with a curfew order.

(P) INTERMITTENT CONFINEMENT

Intermittent confinement (custody for intervals of time) may be ordered as a condition of supervised release during the first year of supervised release, but only for a violation of a condition of supervised release in accordance with 18 U.S.C. § 3583(e)(2) and only when facilities are available. *See* §5F1.8 (Intermittent Confinement).

**Commentary**

**Application Notes:**

1. **Individualized Assessment.**—When conducting an individualized assessment under this section, the court must consider the same factors used to determine whether to impose a term of supervised release, and shall impose conditions of supervision not required by statute only to the extent such conditions meet the requirements listed at 18 U.S.C. § 3583(d). *See* 18 U.S.C. § 3583(c), (d); Application Note 1 to §5D1.1 (Imposition of a Term of Supervised Release).

2. **Application of Subsection (b)(2)(D).**—Although the condition in subsection (b)(2)(D) requires the defendant to "answer truthfully" the questions asked by the probation officer, a defendant's legitimate invocation of the Fifth Amendment privilege against self-incrimination in response to a probation officer's question shall not be considered a violation of this condition.

3. **Application of Subsection (b)(3)(G).**—For purposes of subsection (b)(3)(G):

"***Sex offense***" means (A) an offense, perpetrated against a minor, under (i) chapter 109A of title 18, United States Code; (ii) chapter 110 of such title, not including a recordkeeping offense; (iii) chapter 117 of such title, not including transmitting information about a minor or filing a factual statement about an alien individual; (iv) an offense under 18 U.S.C. § 1201; or (v) an offense under 18 U.S.C. § 1591; or (B) an attempt or a conspiracy to commit any offense described in subparagraphs (A)(i) through (v) of this note. Such term does not include an offense under 18 U.S.C. § 2250 (Failure to register).

"***Minor***" means (A) an individual who had not attained the age of 18 years; (B) an individual, whether fictitious or not, who a law enforcement officer represented to a participant (i) had not attained the age of 18 years; and (ii) could be provided for the purposes of engaging in sexually explicit conduct; or (C) an undercover law enforcement officer who represented to a participant that the officer had not attained the age of 18 years.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 276, 277, and 302); November 1, 1997 (amendment 569); November 1, 1998 (amendment 584); November 1, 2000 (amendment 605); November 1, 2001 (amendment 615); November 1, 2002 (amendments 644 and 646); November 1, 2004 (amendment 664); November 1, 2007 (amendments 701 and 711); November 1, 2009 (amendment 733); November 1, 2016 (amendment 803); November 1, 2018 (amendments 812 and 813); November 1, 2025 (amendments 835 and 836). |

## §5D1.4. Modification, Early Termination, and Extension of Supervised Release (Policy Statement)

(a) MODIFICATION OF CONDITIONS.—At any time prior to the expiration or termination of the term of supervised release, the court may modify, reduce, or enlarge the conditions of supervised release whenever warranted by an individualized assessment of the appropriateness of existing conditions. *See* 18 U.S.C. § 3583(e)(2). The court is encouraged to conduct such an assessment in consultation with the probation officer after the defendant's release from imprisonment.

(b) EARLY TERMINATION.—Any time after the expiration of one year of supervised release and after an individualized assessment of the need for ongoing supervision, the court may terminate the remaining term of supervision and discharge the defendant if the court determines, following consultation with the government and the probation officer, that the termination is warranted by the conduct of the defendant and in the interest of justice. *See* 18 U.S.C. § 3583(e)(1).

(c) EXTENDING A TERM OF SUPERVISED RELEASE.—The court may, at any time prior to the expiration or termination of a term of supervised release, extend the term of supervised release if less than the maximum authorized term of supervised release was previously imposed and the extension is warranted by an individualized assessment of the need for further supervision. *See* 18 U.S.C. § 3583(e)(2).

## Commentary

**Application Notes:**

1. **Individualized Assessment.—**

   (A) **In General.—**When making an individualized assessment under this section, the factors to be considered are the same factors used to determine whether to impose a term of supervised release. *See* 18 U.S.C. § 3583(c), (e); Application Note 1 to §5D1.1 (Imposition of a Term of Supervised Release).

   (B) **Early Termination.—**When determining whether to terminate the remaining term of supervised release under subsection (b), the court may wish to consider such factors as:

      (i) any history of court-reported violations over the term of supervision;

      (ii) the ability of the defendant to lawfully self-manage (*e.g.,* the ability to problem-solve and avoid situations that may result in a violation of a condition of supervised release or new criminal charges);

      (iii) the defendant's substantial compliance with all conditions of supervision;

      (iv) the defendant's engagement in appropriate prosocial activities and the existence or lack of prosocial support to remain lawful beyond the period of supervision;

      (v) a demonstrated reduction in risk level or maintenance of the lowest category of risk over the period of supervision; and

      (vi) whether termination will jeopardize public safety, as evidenced by the nature of the defendant's offense, the defendant's criminal history, the defendant's record while incarcerated, the defendant's efforts to reintegrate into the community and avoid recidivism, any statements or information provided by the victims of the offense, and other factors the court finds relevant.

2. **Notification of Victims.—**When determining whether to modify any condition of supervised release that would be relevant to a victim or to terminate the remaining term of supervised release, the Commission encourages the court, in coordination with the government, to ensure that any victim of the offense is reasonably, accurately, and timely notified, and provided, to the extent practicable, with an opportunity to be reasonably heard, unless any such victim previously requested not to be notified.

3. **Application of Subsection (c).—**Subsection (c) addresses a court's authority to extend a term of supervised release. In some cases, extending a term may be more appropriate than taking other measures, such as revoking the term of supervised release.

| | |
|---|---|
| *Historical Note* | Effective November 1, 2025 (amendment 835). |

# PART E — RESTITUTION, FINES, ASSESSMENTS, FORFEITURES

## §5E1.1. Restitution

(a) In the case of an identifiable victim, the court shall—

(1) enter a restitution order for the full amount of the victim's loss, if such order is authorized under 18 U.S.C. § 1593, § 2248, § 2259, § 2264, § 2327, § 3663, or § 3663A, or 21 U.S.C. § 853(q); or

(2) impose a term of probation or supervised release with a condition requiring restitution for the full amount of the victim's loss, if the offense is not an offense for which restitution is authorized under 18 U.S.C. § 3663(a)(1) but otherwise meets the criteria for an order of restitution under that section.

(b) *Provided*, that the provisions of subsection (a) do not apply—

(1) when full restitution has been made; or

(2) in the case of a restitution order under 18 U.S.C. § 3663; a restitution order under 18 U.S.C. § 3663A that pertains to an offense against property described in 18 U.S.C. § 3663A(c)(1)(A)(ii); or a condition of restitution imposed pursuant to subsection (a)(2) above, to the extent the court finds, from facts on the record, that (A) the number of identifiable victims is so large as to make restitution impracticable; or (B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

(c) If a defendant is ordered to make restitution to an identifiable victim and to pay a fine, the court shall order that any money paid by the defendant shall first be applied to satisfy the order of restitution.

(d) In a case where there is no identifiable victim and the defendant was convicted under 21 U.S.C. § 841, § 848(a), § 849, § 856, § 861, or § 863, the court, taking into consideration the amount of public harm caused by the offense and other relevant factors, shall order an amount of community restitution not to exceed the fine imposed under §5E1.2.

(e) A restitution order may direct the defendant to make a single, lump sum payment, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments. *See* 18 U.S.C. § 3664(f)(3)(A). An in-kind payment may be in the form of

(1) return of property; (2) replacement of property; or (3) if the victim agrees, services rendered to the victim or to a person or organization other than the victim. *See* 18 U.S.C. § 3664(f)(4).

(f) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.

(g) Special Instruction

(1) This guideline applies only to a defendant convicted of an offense committed on or after November 1, 1997. Notwithstanding the provisions of §1B1.11 (Use of Guidelines Manual in Effect on Date of Sentencing), use the former §5E1.1 (set forth in Appendix C, amendment 571) in lieu of this guideline in any other case.

**Commentary**

**Application Note:**

1. The court shall not order community restitution under subsection (d) if it appears likely that such an award would interfere with a forfeiture under chapter 46 or 96 of title 18, United States Code, or under the Controlled Substances Act (21 U.S.C. § 801 *et seq.*). *See* 18 U.S.C. § 3663(c)(4).

   Furthermore, a penalty assessment under 18 U.S.C. § 3013 or a fine under subchapter C of chapter 227 of title 18, United States Code, shall take precedence over an order of community restitution under subsection (d). *See* 18 U.S.C. § 3663(c)(5).

**Background:** Section 3553(a)(7) of title 18, United States Code, requires the court, "in determining the particular sentence to be imposed," to consider "the need to provide restitution to any victims of the offense." Orders of restitution are authorized under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327, 3663, and 3663A, and 21 U.S.C. § 853(q). For offenses for which an order of restitution is not authorized, restitution may be imposed as a condition of probation or supervised release.

Subsection (d) implements the instruction to the Commission in section 205 of the Antiterrorism and Effective Death Penalty Act of 1996. This provision directs the Commission to develop guidelines for community restitution in connection with certain drug offenses where there is no identifiable victim but the offense causes "public harm."

To the extent that any of the above-noted statutory provisions conflict with the provisions of this guideline, the applicable statutory provision shall control.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective January 15, 1988 (amendment 53); November 1, 1989 (amendments 278, 279, and 302); November 1, 1991 (amendment 383); November 1, 1993 (amendment 501); November 1, 1995 (amendment 530); November 1, 1997 (amendment 571); May 1, 2001 (amendment 612); November 1, 2001 (amendment 627); November 1, 2023 (amendment 824). |

## §5E1.2. Fines for Individual Defendants

(a) The court shall impose a fine in all cases, except where the defendant establishes that he is unable to pay and is not likely to become able to pay any fine.

(b) The applicable fine guideline range is that specified in subsection (c) below. If, however, the guideline for the offense in Chapter Two provides a specific rule for imposing a fine, that rule takes precedence over subsection (c) of this section.

(c) (1) The minimum of the fine guideline range is the amount shown in column A of the table below.

(2) Except as specified in paragraph (4) below, the maximum of the fine guideline range is the amount shown in column B of the table below.

(3) FINE TABLE

| OFFENSE LEVEL | A MINIMUM | B MAXIMUM |
|---|---|---|
| 3 and below | $300 | $15,000 |
| 4–5 | $700 | $15,000 |
| 6–7 | $1,500 | $15,000 |
| 8–9 | $2,500 | $25,000 |
| 10–11 | $5,500 | $55,000 |
| 12–13 | $7,500 | $75,000 |
| 14–15 | $10,000 | $100,000 |
| 16–17 | $15,000 | $150,000 |
| 18–19 | $15,000 | $150,000 |
| 20–22 | $20,000 | $200,000 |
| 23–25 | $25,000 | $250,000 |
| 26–28 | $35,000 | $350,000 |
| 29–31 | $40,000 | $400,000 |
| 32–34 | $50,000 | $500,000 |
| 35–37 | $55,000 | $550,000 |
| 38 and above | $70,000 | $700,000. |

(4) Subsection (c)(2), limiting the maximum fine, does not apply if the defendant is convicted under a statute authorizing (A) a maximum fine greater than $500,000, or (B) a fine for each day of violation. In such cases, the court may impose a fine up to the maximum authorized by the statute.

(d) In determining the amount of the fine, the court shall consider:

(1) the need for the combined sentence to reflect the seriousness of the offense (including the harm or loss to the victim and the gain to the defendant), to promote respect for the law, to provide just punishment and to afford adequate deterrence;

(2) any evidence presented as to the defendant's ability to pay the fine (including the ability to pay over a period of time) in light of his earning capacity and financial resources;

(3) the burden that the fine places on the defendant and his dependents relative to alternative punishments;

(4) any restitution or reparation that the defendant has made or is obligated to make;

(5) any collateral consequences of conviction, including civil obligations arising from the defendant's conduct;

(6) whether the defendant previously has been fined for a similar offense;

(7) the expected costs to the government of any term of probation, or term of imprisonment and term of supervised release imposed; and

(8) any other pertinent equitable considerations.

The amount of the fine should always be sufficient to ensure that the fine, taken together with other sanctions imposed, is punitive.

(e) If the defendant establishes that (1) he is not able and, even with the use of a reasonable installment schedule, is not likely to become able to pay all or part of the fine required by the preceding provisions, or (2) imposition of a fine would unduly burden the defendant's dependents, the court may impose a lesser fine or waive the fine. In these circumstances, the court shall consider alternative sanctions in lieu of all or a portion of the fine, and must still impose a total combined sanction that is punitive. Although any additional sanction not proscribed by the guidelines is permissible, community service is the generally preferable alternative in such instances.

(f) If the defendant establishes that payment of the fine in a lump sum would have an unduly severe impact on him or his dependents, the court should establish an installment schedule for payment of the fine. The length of the installment schedule generally should not exceed twelve months, and shall not exceed the maximum term of probation authorized for the offense. The defendant should be required to pay a substantial installment at the

time of sentencing. If the court authorizes a defendant sentenced to probation or supervised release to pay a fine on an installment schedule, the court shall require as a condition of probation or supervised release that the defendant pay the fine according to the schedule. The court also may impose a condition prohibiting the defendant from incurring new credit charges or opening additional lines of credit unless he is in compliance with the payment schedule.

(g) If the defendant knowingly fails to pay a delinquent fine, the court shall resentence him in accordance with 18 U.S.C. § 3614.

(h) Special Instructions

(1) For offenses committed prior to November 1, 2015, use the applicable fine guideline range that was set forth in the version of §5E1.2(c) that was in effect on November 1, 2014, rather than the applicable fine guideline range set forth in subsection (c) above.

(2) For offenses committed on or after November 1, 2015 but prior to November 1, 2026, use the applicable fine guideline range that was set forth in the version of §5E1.2(c) that was in effect on November 1, 2025, rather than the applicable fine guideline range set forth in subsection (c) above.

**Commentary**

**Application Notes:**

1. A fine may be the sole sanction if the guidelines do not require a term of imprisonment. If, however, the fine is not paid in full at the time of sentencing, it is recommended that the court sentence the defendant to a term of probation, with payment of the fine as a condition of probation. If a fine is imposed in addition to a term of imprisonment, it is recommended that the court impose a term of supervised release following imprisonment as a means of enforcing payment of the fine.

2. In general, the maximum fine permitted by law as to each count of conviction is $250,000 for a felony or for any misdemeanor resulting in death; $100,000 for a Class A misdemeanor; and $5,000 for any other offense. 18 U.S.C. § 3571(b)(3)–(7). However, higher or lower limits may apply when specified by statute. 18 U.S.C. § 3571(b)(1), (e). As an alternative maximum, the court may fine the defendant up to the greater of twice the gross gain or twice the gross loss. 18 U.S.C. § 3571(b)(2), (d).

3. The determination of the fine guideline range may be dispensed with entirely upon a court determination of present and future inability to pay any fine. The inability of a defendant to post bail bond (having otherwise been determined eligible for release) and the fact that a defendant is represented by (or was determined eligible for) assigned counsel are significant indicators of present inability to pay any fine. In conjunction with other factors, they may also indicate that the defendant is not likely to become able to pay any fine.

4. Subsection (c)(4) applies to statutes that contain special provisions permitting larger fines; the guidelines do not limit maximum fines in such cases. These statutes include, among others: 21 U.S.C. §§ 841(b) and 960(b), which authorize fines up to $8 million in offenses involving the

manufacture, distribution, or importation of certain controlled substances; 21 U.S.C. § 848(a), which authorizes fines up to $4 million in offenses involving the manufacture or distribution of controlled substances by a continuing criminal enterprise; 18 U.S.C. § 1956(a), which authorizes a fine equal to the greater of $500,000 or two times the value of the monetary instruments or funds involved in offenses involving money laundering of financial instruments; 18 U.S.C. § 1957(b)(2), which authorizes a fine equal to two times the amount of any criminally derived property involved in a money laundering transaction; 33 U.S.C. § 1319(c), which authorizes a fine of up to $50,000 per day for violations of the Water Pollution Control Act; 42 U.S.C. § 6928(d), which authorizes a fine of up to $50,000 per day for violations of the Resource Conservation Act; and 52 U.S.C. § 30109(d)(1)(D), which authorizes, for violations of the Federal Election Campaign Act under 52 U.S.C. § 30122, a fine up to the greater of $50,000 or 1,000 percent of the amount of the violation, and which requires, in the case of such a violation, a minimum fine of not less than 300 percent of the amount of the violation.

There may be cases in which the defendant has entered into a conciliation agreement with the Federal Election Commission under section 309 of the Federal Election Campaign Act of 1971 in order to correct or prevent a violation of such Act by the defendant. The existence of a conciliation agreement between the defendant and Federal Election Commission, and the extent of compliance with that conciliation agreement, may be appropriate factors in determining at what point within the applicable fine guideline range to sentence the defendant, unless the defendant began negotiations toward a conciliation agreement after becoming aware of a criminal investigation.

5. The existence of income or assets that the defendant failed to disclose may justify a larger fine than that which otherwise would be warranted under this section. The court may base its conclusion as to this factor on information revealing significant unexplained expenditures by the defendant or unexplained possession of assets that do not comport with the defendant's reported income. If the court concludes that the defendant willfully misrepresented all or part of his income or assets, it may increase the offense level and resulting sentence in accordance with Chapter Three, Part C (Obstruction and Related Adjustments).

6. In considering subsection (d)(7), the court may be guided by reports published by the Federal Bureau of Prisons and the Administrative Office of the United States Courts concerning average costs.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective January 15, 1988 (amendment 54); November 1, 1989 (amendments 280, 281, and 302); November 1, 1990 (amendment 356); November 1, 1991 (amendment 384); November 1, 1997 (amendment 572); November 1, 2002 (amendment 646); January 25, 2003 (amendment 648); November 1, 2003 (amendment 656); November 1, 2011 (amendment 758); November 1, 2015 (amendments 791 and 796); November 1, 2024 (amendment 831); November 1, 2025 (amendment 836); November 1, 2026 (amendments 838 and 843). |

## §5E1.3. Special Assessments

A special assessment must be imposed on a convicted defendant in the amount prescribed by statute.

### Commentary

**Application Notes:**

1. This guideline applies only if the defendant is an individual. *See* §8E1.1 for special assessments applicable to organizations.

2. The following special assessments are provided by statute (18 U.S.C. § 3013):

| FOR OFFENSES COMMITTED BY INDIVIDUALS ON OR AFTER APRIL 24, 1996: |
|---|
| (A) $100, if convicted of a felony; |
| (B) $25, if convicted of a Class A misdemeanor; |
| (C) $10, if convicted of a Class B misdemeanor; |
| (D) $5, if convicted of a Class C misdemeanor or an infraction. |

| FOR OFFENSES COMMITTED BY INDIVIDUALS ON OR AFTER NOVEMBER 18, 1988 BUT PRIOR TO APRIL 24, 1996: |
|---|
| (E) $50, if convicted of a felony; |
| (F) $25, if convicted of a Class A misdemeanor; |
| (G) $10, if convicted of a Class B misdemeanor; |
| (H) $5, if convicted of a Class C misdemeanor or an infraction. |

| FOR OFFENSES COMMITTED BY INDIVIDUALS PRIOR TO NOVEMBER 18, 1988: |
|---|
| (I) $50, if convicted of a felony; |
| (J) $25, if convicted of a misdemeanor. |

3. A special assessment is required by statute for each count of conviction.

**Background:** Section 3013 of title 18, United States Code, added by the Victims of Crimes Act of 1984, Pub. L. No. 98–473, Title II, Chap. XIV, requires courts to impose special assessments on convicted defendants for the purpose of funding the Crime Victims Fund established by the same legislation.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 282 and 302); November 1, 1997 (amendment 573); November 1, 2023 (amendment 824). |

## §5E1.4. Forfeiture

Forfeiture is to be imposed upon a convicted defendant as provided by statute.

### Commentary

**Background:** Forfeiture provisions exist in various statutes. For example, 18 U.S.C. § 3554 requires the court imposing a sentence under 18 U.S.C. § 1962 (proscribing the use of the proceeds of racketeering activities in the operation of an enterprise engaged in interstate commerce) or titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (proscribing the manufacture and distribution of controlled substances) to order the forfeiture of property in accordance with 18 U.S.C. § 1963 and 21 U.S.C. § 853, respectively. Those provisions require the automatic forfeiture of certain property upon conviction of their respective underlying offenses.

In addition, the provisions of 18 U.S.C. §§ 3681–3682 authorizes the court, in certain circumstances, to order the forfeiture of a violent criminal's proceeds from the depiction of his crime in a book, movie, or other medium. Those sections authorize the deposit of proceeds in an escrow account in the Crime Victims Fund of the United States Treasury. The money is to remain available in the account for five years to satisfy claims brought against the defendant by the victim(s) of his offenses. At the

end of the five-year period, the court may require that any proceeds remaining in the account be released from escrow and paid into the Fund. 18 U.S.C. § 3681(c)(2).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 302); November 1, 2023 (amendment 824). |

## §5E1.5. Costs of Prosecution (Policy Statement)

Costs of prosecution shall be imposed on a defendant as required by statute.

### Commentary

**Background:** Various statutes require the court to impose the costs of prosecution: 7 U.S.C. § 13 (larceny or embezzlement in connection with commodity exchanges); 21 U.S.C. § 844 (simple possession of controlled substances) (unless the court finds that the defendant lacks the ability to pay); 26 U.S.C. § 7201 (attempt to defeat or evade income tax); 26 U.S.C. § 7202 (willful failure to collect or pay tax); 26 U.S.C. § 7203 (willful failure to file income tax return, supply information, or pay tax); 26 U.S.C. § 7206 (fraud and false statements); 26 U.S.C. § 7210 (failure to obey summons); 26 U.S.C. § 7213 (unauthorized disclosure of information); 26 U.S.C. § 7215 (offenses with respect to collected taxes); 26 U.S.C. § 7216 (disclosure or use of information by preparers of returns); 26 U.S.C. § 7232 (failure to register or false statement by gasoline manufacturer or producer); 42 U.S.C. § 1320c-9 (improper FOIA disclosure); 43 U.S.C. § 942-6 (rights of way for Alaskan wagon roads).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1992 (amendment 463). Amended effective November 1, 2010 (amendment 747). |

# PART F — SENTENCING OPTIONS

## §5F1.1. Community Confinement

Community confinement may be imposed as a condition of probation or supervised release.

### Commentary

**Application Notes:**

1. "***Community confinement***" means residence in a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community facility; and participation in gainful employment, employment search efforts, community service, vocational training, treatment, educational programs, or similar facility-approved programs during non-residential hours.

2. Community confinement generally should not be imposed for a period in excess of six months. A longer period may be imposed to accomplish the objectives of a specific rehabilitative program, such as drug rehabilitation. The sentencing judge may impose other discretionary conditions of probation or supervised release appropriate to effectuate community confinement.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 302); November 1, 2002 (amendment 646); November 1, 2009 (amendment 733). |

## §5F1.2. Home Detention

Home detention may be imposed as a condition of probation or supervised release, but only as a substitute for imprisonment.

### Commentary

**Application Notes:**

1. "***Home detention***" means a program of confinement and supervision that restricts the defendant to his place of residence continuously, except for authorized absences, enforced by appropriate means of surveillance by the probation office. When an order of home detention is imposed, the defendant is required to be in his place of residence at all times except for approved absences for gainful employment, community service, religious services, medical care, educational or training programs, and such other times as may be specifically authorized. Electronic monitoring is an appropriate means of surveillance for home detention. However, alternative means of surveillance may be used if appropriate.

2. The court may impose other conditions of probation or supervised release appropriate to effectuate home detention. If the court concludes that the amenities available in the residence of a defendant would cause home detention not to be sufficiently punitive, the court may limit the amenities available.

3. The defendant's place of residence, for purposes of home detention, need not be the place where the defendant previously resided. It may be any place of residence, so long as the owner of the

residence (and any other person(s) from whom consent is necessary) agrees to any conditions that may be imposed by the court, *e.g.*, conditions that a monitoring system be installed, that there will be no "call forwarding" or "call waiting" services, or that there will be no cordless telephones or answering machines.

**Background:** The Commission has concluded that electronic monitoring is an appropriate means of surveillance for home detention. However, in some cases home detention may effectively be enforced without electronic monitoring, *e.g.*, when the defendant is physically incapacitated, or where some other effective means of surveillance is available. Accordingly, the Commission has not required that electronic monitoring be a necessary condition for home detention. Nevertheless, before ordering home detention without electronic monitoring, the court should be confident that an alternative form of surveillance is appropriate considering the facts and circumstances of the defendant's case.

In the usual case, the Commission assumes that a condition requiring that the defendant seek and maintain gainful employment will be imposed when home detention is ordered.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 271 and 302); November 1, 2018 (amendment 811). |

## §5F1.3. Community Service

Community service may be ordered as a condition of probation or supervised release.

### Commentary

**Application Note:**

1. Community service generally should not be imposed in excess of 400 hours. Longer terms of community service impose heavy administrative burdens relating to the selection of suitable placements and the monitoring of attendance.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 283 and 302); November 1, 1991 (amendment 419). |

## §5F1.4. Order of Notice to Victims

The court may order the defendant to pay the cost of giving notice to victims pursuant to 18 U.S.C. § 3555. This cost may be set off against any fine imposed if the court determines that the imposition of both sanctions would be excessive.

### Commentary

**Background:** In cases where a defendant has been convicted of an offense involving fraud or "other intentionally deceptive practices," the court may order the defendant to "give reasonable notice and explanation of the conviction, in such form as the court may approve" to the victims of the offense. 18 U.S.C. § 3555. The court may order the notice to be given by mail, by advertising in specific areas

or through specific media, or by other appropriate means. In determining whether a notice is appropriate, the court must consider the generally applicable sentencing factors listed in 18 U.S.C. § 3553(a) and the cost involved in giving the notice as it relates to the loss caused by the crime. The court may not require the defendant to pay more than $20,000 to give notice.

If an order of notice to victims is under consideration, the court must notify the government and the defendant. 18 U.S.C. § 3553(d). Upon motion of either party, or on its own motion, the court must: (1) permit the parties to submit affidavits and memoranda relevant to the imposition of such an order; (2) provide counsel for both parties the opportunity to address orally, in open court, the appropriateness of such an order; and (3) if it issues such an order, state its reasons for doing so. The court may also order any additional procedures that will not unduly complicate or prolong the sentencing process.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 284 and 302). |

## §5F1.5. Occupational Restrictions

(a) The court may impose a condition of probation or supervised release prohibiting the defendant from engaging in a specified occupation, business, or profession, or limiting the terms on which the defendant may do so, only if it determines that:

(1) a reasonably direct relationship existed between the defendant's occupation, business, or profession and the conduct relevant to the offense of conviction; and

(2) imposition of such a restriction is reasonably necessary to protect the public because there is reason to believe that, absent such restriction, the defendant will continue to engage in unlawful conduct similar to that for which the defendant was convicted.

(b) If the court decides to impose a condition of probation or supervised release restricting a defendant's engagement in a specified occupation, business, or profession, the court shall impose the condition for the minimum time and to the minimum extent necessary to protect the public.

### Commentary

**Background:** The Comprehensive Crime Control Act authorizes the imposition of occupational restrictions as a condition of probation, 18 U.S.C. § 3563(b)(5), or supervised release, 18 U.S.C. § 3583(d). Pursuant to § 3563(b)(5), a court may require a defendant to:

> [R]efrain, in the case of an individual, from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the offense, or engage in such a specified occupation, business, or profession only to a stated degree or under stated circumstances.

Section 3583(d) incorporates this section by reference. The Senate Judiciary Committee Report on the Comprehensive Crime Control Act explains that the provision was "intended to be used to preclude the continuation or repetition of illegal activities while avoiding a bar from employment that exceeds that needed to achieve that result." S. Rep. No. 225, 98th Cong., 1st Sess. 96–97. The condition "should only be used as reasonably necessary to protect the public. It should not be used as a means of punishing the convicted person." *Id.* at 96. Section 5F1.5 accordingly limits the use of the condition and, if imposed, limits its scope, to the minimum reasonably necessary to protect the public.

The appellate review provisions permit a defendant to challenge the imposition of a probation condition under 18 U.S.C. § 3563(b)(5) if the sentence includes a more limiting condition of probation or supervised release than the maximum established in the guideline. *See* 18 U.S.C. § 3742(a)(3). The government may appeal if the sentence includes a less limiting condition of probation than the minimum established in the guideline. *See* 18 U.S.C. § 3742(b)(3).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 285 and 302); November 1, 1991 (amendment 428); November 1, 2002 (amendment 646). |

## §5F1.6. Denial of Federal Benefits to Drug Traffickers and Possessors

The court, pursuant to 21 U.S.C. § 862, may deny the eligibility for certain federal benefits of any individual convicted of distribution or possession of a controlled substance.

### Commentary

**Application Note:**

1. **Definition of "Federal Benefit".**—"***Federal benefit***" is defined in 21 U.S.C. § 862(d) to mean "any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States" but "does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility."

**Background:** Subsections (a) and (b) of 21 U.S.C. § 862 provide that an individual convicted of a state or federal drug trafficking or possession offense may be denied certain federal benefits. Except for an individual convicted of a third or subsequent drug distribution offense, the period of benefit ineligibility, within the applicable maximum term set forth in 21 U.S.C. § 862(a)(1) (for distribution offenses) and (b)(1)(for possession offenses), is at the discretion of the court. In the case of an individual convicted of a third or subsequent drug distribution offense, denial of benefits is mandatory and permanent under 21 U.S.C. § 862(a)(1)(C) (unless suspended by the court under 21 U.S.C. § 862(c)).

Subsection (b)(2) of 21 U.S.C. § 862 provides that the period of benefit ineligibility that may be imposed in the case of a drug possession offense "shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services."

Subsection (c) of 21 U.S.C. § 862 provides that the period of benefit ineligibility shall be suspended "if the individual (A) completes a supervised drug rehabilitation program after becoming ineligible under this section; (B) has otherwise been rehabilitated; or (C) has made a good faith effort to

gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program."

Subsection (e) of 21 U.S.C. § 862 provides that a period of benefit ineligibility "shall not apply to any individual who cooperates or testifies with the Government in the prosecution of a Federal or State offense or who is in a Government witness protection program."

| | |
|---|---|
| *Historical Note* | Effective November 1, 1989 (amendment 305). Amended effective November 1, 1992 (amendment 464); November 1, 2024 (amendment 831). |

## §5F1.7. Shock Incarceration Program (Policy Statement)

The court, pursuant to 18 U.S.C. §§ 3582(a) and 3621(b)(4), may recommend that a defendant who meets the criteria set forth in 18 U.S.C. § 4046 participate in a shock incarceration program.

### Commentary

**Background:** Section 4046 of title 18, United States Code, provides—

"(a) the Bureau of Prisons may place in a shock incarceration program any person who is sentenced to a term of more than 12, but not more than 30 months, if such person consents to that placement.

(b) For such initial portion of the term of imprisonment as the Bureau of Prisons may determine, not to exceed 6 months, an inmate in the shock incarceration program shall be required to—

(1) adhere to a highly regimented schedule that provides the strict discipline, physical training, hard labor, drill, and ceremony characteristic of military basic training; and

(2) participate in appropriate job training and educational programs (including literacy programs) and drug, alcohol, and other counseling programs.

(c) An inmate who in the judgment of the Director of the Bureau of Prisons has successfully completed the required period of shock incarceration shall remain in the custody of the Bureau for such period (not to exceed the remainder of the prison term otherwise required by law to be served by that inmate), and under such conditions, as the Bureau deems appropriate." 18 U.S.C. § 4046.

In 1990, the Federal Bureau of Prisons issued an operations memorandum (174-90 (5390), November 20, 1990) that outlined eligibility criteria and procedures for the implementation of a shock incarceration program (which the Federal Bureau of Prisons titled the "intensive confinement program"). In 2008, however, the Federal Bureau of Prisons terminated the program and removed the rules governing its operation. *See* 73 FR 39863 (July 11, 2008).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1991 (amendment 424). Amended effective November 1, 2002 (amendment 646); November 1, 2023 (amendment 823); November 1, 2026 (amendment 843). |

## §5F1.8. Intermittent Confinement

Intermittent confinement may be imposed as a condition of probation during the first year of probation. *See* 18 U.S.C. § 3563(b)(10). It may be imposed as a condition of supervised release during the first year of supervised release, but only for a violation of a condition of supervised release in accordance with 18 U.S.C. § 3583(e)(2) and only when facilities are available. *See* 18 U.S.C. § 3583(d).

### Commentary

**Application Note:**

1. "***Intermittent confinement***" means remaining in the custody of the Federal Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense, during the first year of the term of probation or supervised release. *See* 18 U.S.C. § 3563(b)(10).

| | |
|---|---|
| *Historical Note* | Effective November 1, 2009 (amendment 733). Amended effective November 1, 2026 (amendment 843). |

# PART G — IMPLEMENTING THE TOTAL SENTENCE OF IMPRISONMENT

## §5G1.1. Sentencing on a Single Count of Conviction

(a) Where the statutorily authorized maximum sentence is less than the minimum of the applicable guideline range, the statutorily authorized maximum sentence shall be the guideline sentence.

(b) Where a statutorily required minimum sentence is greater than the maximum of the applicable guideline range, the statutorily required minimum sentence shall be the guideline sentence.

(c) In any other case, the sentence may be imposed at any point within the applicable guideline range, provided that the sentence—

(1) is not greater than the statutorily authorized maximum sentence, and

(2) is not less than any statutorily required minimum sentence.

**Commentary**

This section describes how the statutorily authorized maximum sentence, or a statutorily required minimum sentence, may affect the determination of a sentence under the guidelines. For example, if the applicable guideline range is 51–63 months and the maximum sentence authorized by statute for the offense of conviction is 48 months, the sentence required by the guidelines under subsection (a) is 48 months. If the applicable guideline range is 41–51 months and there is a statutorily required minimum sentence of 60 months, the sentence required by the guidelines under subsection (b) is 60 months. If the applicable guideline range is 51–63 months and the maximum sentence authorized by statute for the offense of conviction is 60 months, the guideline range is restricted to 51–60 months under subsection (c).

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 286); November 1, 2025 (amendment 836). |

## §5G1.2. Sentencing on Multiple Counts of Conviction

(a) Except as provided in subsection (e), the sentence to be imposed on a count for which the statute (1) specifies a term of imprisonment to be imposed; and (2) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment, shall be determined by that statute and imposed independently.

(b) For all counts not covered by subsection (a), the court shall determine the total punishment and shall impose that total punishment on each such count, except to the extent otherwise required by law.

(c) If the sentence imposed on the count carrying the highest statutory maximum is adequate to achieve the total punishment, then the sentences on all counts shall run concurrently, except to the extent otherwise required by law.

(d) If the sentence imposed on the count carrying the highest statutory maximum is less than the total punishment, then the sentence imposed on one or more of the other counts shall run consecutively, but only to the extent necessary to produce a combined sentence equal to the total punishment. In all other respects, sentences on all counts shall run concurrently, except to the extent otherwise required by law.

(e) In a case in which subsection (c) of §4B1.1 (Career Offender) applies, to the extent possible, the total punishment is to be apportioned among the counts of conviction, except that (1) the sentence to be imposed on a count requiring a minimum term of imprisonment shall be at least the minimum required by statute; and (2) the sentence to be imposed on the 18 U.S.C. § 924(c) or § 929(a) count shall be imposed to run consecutively to any other count.

**Commentary**

**Application Notes:**

1. **In General.—**This section specifies the procedure for determining the specific sentence to be formally imposed on each count in a multiple-count case. The combined length of the sentences ("total punishment") is determined by the court after determining the adjusted combined offense level and the Criminal History Category and determining the defendant's guideline range on the Sentencing Table in Chapter Five, Part A (Determination of Sentencing Range and Sentencing Options).

   Note that the defendant's guideline range on the Sentencing Table may be affected or restricted by a statutorily authorized maximum sentence or a statutorily required minimum sentence not only in a single-count case, *see* §5G1.1 (Sentencing on a Single Count of Conviction), but also in a multiple-count case. *See* Application Note 3, below.

   Except as otherwise required by subsection (e) or any other law, the total punishment is to be imposed on each count and the sentences on all counts are to be imposed to run concurrently to the extent allowed by the statutory maximum sentence of imprisonment for each count of conviction.

   This section applies to multiple counts of conviction (A) contained in the same indictment or information, or (B) contained in different indictments or informations for which sentences are to be imposed at the same time or in a consolidated proceeding.

   Usually, at least one of the counts will have a statutory maximum adequate to permit imposition of the total punishment as the sentence on that count. The sentence on each of the other counts will then be set at the lesser of the total punishment and the applicable statutory maximum, and be made to run concurrently with all or part of the longest sentence. If no count carries an adequate statutory maximum, consecutive sentences are to be imposed to the extent necessary to achieve the total punishment.

2. **Mandatory Minimum and Mandatory Consecutive Terms of Imprisonment (Not Covered by Subsection (e)).—**

(A) **In General.—**Subsection (a) applies if a statute (i) specifies a term of imprisonment to be imposed; and (ii) requires that such term of imprisonment be imposed to run consecutively to any other term of imprisonment. *See, e.g.*, 18 U.S.C. § 924(c) (requiring mandatory minimum terms of imprisonment, based on the conduct involved, and also requiring the sentence imposed to run consecutively to any other term of imprisonment) and 18 U.S.C. § 1028A (requiring a mandatory term of imprisonment of either two or five years, based on the conduct involved, and also requiring, except in the circumstances described in subparagraph (B), the sentence imposed to run consecutively to any other term of imprisonment). Except for certain career offender situations in which subsection (c) of §4B1.1 (Career Offender) applies, the term of years to be imposed consecutively is the minimum required by the statute of conviction and is independent of the guideline sentence on any other count. *See, e.g.*, the Commentary to §§2K2.4 (Use of Firearm, Armor-Piercing Ammunition, or Explosive During or in Relation to Certain Crimes) and 3D1.1 (Procedure for Determining Offense Level on Multiple Counts) regarding the determination of the offense levels for related counts when a conviction under 18 U.S.C. § 924(c) is involved. Subsection (a) also applies in certain other instances in which an independently determined and consecutive sentence is required. *See, e.g.*, Application Note 3 of the Commentary to §2J1.6 (Failure to Appear by Defendant), relating to failure to appear for service of sentence.

(B) **Multiple Convictions Under 18 U.S.C. § 1028A.—**Section 1028A of title 18, United States Code, generally requires that the mandatory term of imprisonment for a violation of such section be imposed consecutively to any other term of imprisonment. However, 18 U.S.C. § 1028A(b)(4) permits the court, in its discretion, to impose the mandatory term of imprisonment on a defendant for a violation of such section "concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission . . .".

In determining whether multiple counts of 18 U.S.C. § 1028A should run concurrently with, or consecutively to, each other, the court should consider the following non-exhaustive list of factors:

(i) The nature and seriousness of the underlying offenses. For example, the court should consider the appropriateness of imposing consecutive, or partially consecutive, terms of imprisonment for multiple counts of 18 U.S.C. § 1028A in a case in which an underlying offense for one of the 18 U.S.C. § 1028A offenses is a crime of violence or an offense enumerated in 18 U.S.C. § 2332b(g)(5)(B).

(ii) Whether subsection (b) of §3D1.1 (Procedure for Determining Offense Level on Multiple Counts) applies to the underlying offenses. Generally, multiple counts of 18 U.S.C. § 1028A should run concurrently with one another in cases in which §3D1.1(b) does not apply to the underlying offenses.

(iii) Whether the purposes of sentencing set forth in 18 U.S.C. § 3553(a)(2) are better achieved by imposing a concurrent or a consecutive sentence for multiple counts of 18 U.S.C. § 1028A.

(C) **Imposition of Supervised Release.**—In the case of a consecutive term of imprisonment imposed under subsection (a), any term of supervised release imposed is to run concurrently with any other term of supervised release imposed. *See* 18 U.S.C. § 3624(e).

3. **Application of Subsection (b).—**

(A) **In General.**—Subsection (b) provides that, for all counts not covered by subsection (a), the court shall determine the total punishment (*i.e.*, the combined length of the sentences to be imposed) and shall impose that total punishment on each such count, except to the extent otherwise required by law (such as where a statutorily required minimum sentence or a statutorily authorized maximum sentence otherwise requires).

(B) **Effect on Guidelines Range of Mandatory Minimum or Statutory Maximum.**—The defendant's guideline range on the Sentencing Table may be affected or restricted by a statutorily authorized maximum sentence or a statutorily required minimum sentence not only in a single-count case, *see* §5G1.1, but also in a multiple-count case.

In particular, where a statutorily required minimum sentence on any count is greater than the maximum of the applicable guideline range, the statutorily required minimum sentence on that count shall be the guideline sentence on all counts. *See* §5G1.1(b). Similarly, where a statutorily required minimum sentence on any count is greater than the minimum of the applicable guideline range, the guideline range for all counts is restricted by that statutorily required minimum sentence. *See* §5G1.1(c)(2) and accompanying Commentary.

However, where a statutorily authorized maximum sentence on a particular count is less than the minimum of the applicable guideline range, the sentence imposed on that count shall not be greater than the statutorily authorized maximum sentence on that count. *See* §5G1.1(a).

(C) **Examples.**—The following examples illustrate how subsection (b) applies, and how the restrictions in subparagraph (B) operate, when a statutorily required minimum sentence is involved.

Defendant A and Defendant B are each convicted of the same four counts. Counts 1, 3, and 4 have statutory maximums of 10 years, 20 years, and 2 years, respectively. Count 2 has a statutory maximum of 30 years and a mandatory minimum of 10 years.

For Defendant A, the court determines that the final offense level is 19 and the defendant is in Criminal History Category I, which yields a guideline range on the Sentencing Table of 30 to 37 months. Because of the 10-year mandatory minimum on Count 2, however, Defendant A's guideline sentence is 120 months. *See* subparagraph (B), above. After considering that guideline sentence, the court determines that the appropriate "total punishment" to be imposed on Defendant A is 120 months. Therefore, subsection (b) requires that the total punishment of 120 months be imposed on each of Counts 1, 2, and 3. The sentence imposed on Count 4 is limited to 24 months, because a statutory maximum of 2 years applies to that particular count.

For Defendant B, in contrast, the court determines that the final offense level is 30 and the defendant is in Criminal History Category II, which yields a guideline range on the Sentencing Table of 108 to 135 months. Because of the 10-year mandatory minimum on Count 2, however, Defendant B's guideline range is restricted to 120 to 135 months. *See* subparagraph (B), above. After considering that restricted guideline range, the court determines that the appropriate "total punishment" to be imposed on Defendant B is 130 months. Therefore, subsection (b) requires that the total punishment of 130 months be

imposed on each of Counts 2 and 3. The sentences imposed on Counts 1 and 4 are limited to 120 months (10 years) and 24 months (2 years), respectively, because of the applicable statutory maximums.

(D) **Special Rule on Resentencing.**—In a case in which (i) the defendant's guideline range on the Sentencing Table was affected or restricted by a statutorily required minimum sentence (as described in subparagraph (B)), (ii) the court is resentencing the defendant, and (iii) the statutorily required minimum sentence no longer applies, the defendant's guideline range for purposes of the remaining counts shall be redetermined without regard to the previous effect or restriction of the statutorily required minimum sentence.

4. **Career Offenders Covered under Subsection (e).—**

(A) **Imposing Sentence.**—The sentence imposed for a conviction under 18 U.S.C. § 924(c) or § 929(a) shall, under that statute, consist of a minimum term of imprisonment imposed to run consecutively to the sentence on any other count. Subsection (e) requires that the total punishment determined under §4B1.1(c) be apportioned among all the counts of conviction. In most cases this can be achieved by imposing the statutory minimum term of imprisonment on the 18 U.S.C. § 924(c) or § 929(a) count, subtracting that minimum term of imprisonment from the total punishment determined under §4B1.1(c), and then imposing the balance of the total punishment on the other counts of conviction. In some cases covered by subsection (e), a consecutive term of imprisonment longer than the minimum required by 18 U.S.C. § 924(c) or § 929(a) will be necessary in order both to achieve the total punishment determined by the court and to comply with the applicable statutory requirements.

(B) **Examples.**—The following examples illustrate the application of subsection (e) in a multiple count situation:

(i) The defendant is convicted of one count of violating 18 U.S.C. § 924(c) for possessing a firearm in furtherance of a drug trafficking offense (5-year mandatory minimum), and one count of violating 21 U.S.C. § 841(b)(1)(C) (20-year statutory maximum). Applying §4B1.1(c), the court determines that a sentence of 300 months is appropriate (applicable guideline range of 262–327). The court then imposes a sentence of 60 months on the 18 U.S.C. § 924(c) count, subtracts that 60 months from the total punishment of 300 months and imposes the remainder of 240 months on the 21 U.S.C. § 841 count. As required by statute, the sentence on the 18 U.S.C. § 924(c) count is imposed to run consecutively.

(ii) The defendant is convicted of one count of 18 U.S.C. § 924(c) (5-year mandatory minimum), and one count of violating 21 U.S.C. § 841(b)(1)(C) (20-year statutory maximum). Applying §4B1.1(c), the court determines that a sentence of 327 months is appropriate (applicable guideline range of 262–327). The court then imposes a sentence of 240 months on the 21 U.S.C. § 841 count and a sentence of 87 months on the 18 U.S.C. § 924(c) count to run consecutively to the sentence on the 21 U.S.C. § 841 count.

(iii) The defendant is convicted of two counts of 18 U.S.C. § 924(c) (5-year mandatory minimum on each count) and one count of violating 18 U.S.C. § 113(a)(3) (10-year statutory maximum). Applying §4B1.1(c), the court determines that a sentence of 262 months is appropriate (applicable guideline range of 262–327 months). The court then imposes (I) a sentence of 82 months on the first 18 U.S.C. § 924(c) count; (II) a sentence of 60 months on the second 18 U.S.C. § 924(c) count; and (III) a sentence of 120 months on the 18 U.S.C. § 113(a)(3) count. The sentence on each count is imposed to run consecutively to the other counts.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendments 287 and 288); November 1, 1994 (amendment 507); November 1, 1998 (amendment 579); November 1, 2000 (amendment 598); November 1, 2002 (amendment 642); November 1, 2004 (amendment 674); November 1, 2005 (amendments 677 and 680); November 1, 2010 (amendment 747); November 1, 2012 (amendments 767 and 770); November 1, 2024 (amendment 831); November 1, 2026 (amendments 840 and 841). |

## §5G1.3. Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment or Anticipated State Term of Imprisonment

(a) If the instant offense was committed while the defendant was serving a term of imprisonment (including work release, furlough, or escape status) or after sentencing for, but before commencing service of, such term of imprisonment, the sentence for the instant offense shall be imposed to run consecutively to the undischarged term of imprisonment.

(b) If subsection (a) does not apply, and a term of imprisonment resulted from another offense that is relevant conduct to the instant offense of conviction under the provisions of subsections (a)(1), (a)(2), or (a)(3) of §1B1.3 (Relevant Conduct), the sentence for the instant offense shall be imposed as follows:

(1) the court shall adjust the sentence for any period of imprisonment already served on the undischarged term of imprisonment if the court determines that such period of imprisonment will not be credited to the federal sentence by the Federal Bureau of Prisons; and

(2) the sentence for the instant offense shall be imposed to run concurrently to the remainder of the undischarged term of imprisonment.

(c) If subsection (a) does not apply, and a state term of imprisonment is anticipated to result from another offense that is relevant conduct to the instant offense of conviction under the provisions of subsections (a)(1), (a)(2), or (a)(3) of §1B1.3 (Relevant Conduct), the sentence for the instant offense shall be imposed to run concurrently to the anticipated term of imprisonment.

(d) (Policy Statement) In any other case involving an undischarged term of imprisonment, the sentence for the instant offense may be imposed to run concurrently, partially concurrently, or consecutively to the prior undischarged term of imprisonment to achieve a reasonable punishment for the instant offense.

## Commentary

**Application Notes:**

1. **Consecutive Sentence — Subsection (a) Cases.** Under subsection (a), the court shall impose a consecutive sentence when the instant offense was committed while the defendant was serving an undischarged term of imprisonment or after sentencing for, but before commencing service of, such term of imprisonment.

2. **Application of Subsection (b).—**

   (A) **In General.—**Subsection (b) applies in cases in which all of the prior offense is relevant conduct to the instant offense under the provisions of subsection (a)(1), (a)(2), or (a)(3) of §1B1.3 (Relevant Conduct). Cases in which only part of the prior offense is relevant conduct to the instant offense are covered under subsection (d).

   (B) **Inapplicability of Subsection (b).—**Subsection (b) does not apply in cases in which the prior offense was not relevant conduct to the instant offense under §1B1.3(a)(1), (a)(2), or (a)(3) (*e.g.*, the prior offense is a prior conviction for which the defendant received an increase under §2L1.2 (Unlawfully Entering or Remaining in the United States), or the prior offense was a crime of violence for which the defendant received an increased base offense level under §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition)).

   (C) **Imposition of Sentence.—**If subsection (b) applies, and the court adjusts the sentence for a period of time already served, the court should note on the Judgment in a Criminal Case Order (i) the applicable subsection (*e.g.*, §5G1.3(b)); (ii) the amount of time by which the sentence is being adjusted; (iii) the undischarged term of imprisonment for which the adjustment is being given and the relevant case information (including docket number); and (iv) that the sentence imposed is a sentence reduction pursuant to §5G1.3(b) for a period of imprisonment that will not be credited by the Federal Bureau of Prisons.

   (D) **Example.—**The following is an example in which subsection (b) applies and an adjustment to the sentence is appropriate:

   The defendant is convicted of a federal offense charging the sale of 90 grams of cocaine. Under §1B1.3, the defendant is held accountable for the sale of an additional 25 grams of cocaine, an offense for which the defendant has been convicted and sentenced in state court. The defendant received a nine-month sentence of imprisonment for the state offense and has served six months on that sentence at the time of sentencing on the instant federal offense. The guideline range applicable to the defendant is 12–18 months (Chapter Two offense level of level 16 for sale of 115 grams of cocaine; 3 level reduction for acceptance of responsibility; final offense level of level 13; Criminal History Category I). The court determines that a sentence of 13 months provides the appropriate total punishment. Because the defendant has already served six months on the related state charge as of the date of sentencing on the instant federal offense, a sentence of seven months, imposed to run concurrently with the three months remaining on the defendant's state sentence, achieves this result.

3. **Application of Subsection (c).—**Subsection (c) applies to cases in which the federal court anticipates that, after the federal sentence is imposed, the defendant will be sentenced in state court and serve a state sentence before being transferred to federal custody for federal imprisonment. In such a case, where the other offense is relevant conduct to the instant offense of conviction under the provisions of subsections (a)(1), (a)(2), or (a)(3) of §1B1.3 (Relevant Conduct), the

sentence for the instant offense shall be imposed to run concurrently to the anticipated term of imprisonment.

4. **Application of Subsection (d).—**

(A) **In General.—**Under subsection (d), the court may impose a sentence concurrently, partially concurrently, or consecutively to the undischarged term of imprisonment. In order to achieve a reasonable incremental punishment for the instant offense and avoid unwarranted disparity, the court should consider the following:

(i) the factors set forth in 18 U.S.C. § 3584 (referencing 18 U.S.C. § 3553(a));

(ii) the type (*e.g.*, determinate, indeterminate/parolable) and length of the prior undischarged sentence;

(iii) the time served on the undischarged sentence and the time likely to be served before release;

(iv) the fact that the prior undischarged sentence may have been imposed in state court rather than federal court, or at a different time before the same or different federal court; and

(v) any other circumstance relevant to the determination of an appropriate sentence for the instant offense.

(B) **Partially Concurrent Sentence.—**In some cases under subsection (d), a partially concurrent sentence may achieve most appropriately the desired result. To impose a partially concurrent sentence, the court may provide in the Judgment in a Criminal Case Order that the sentence for the instant offense shall commence on the earlier of (i) when the defendant is released from the prior undischarged sentence; or (ii) on a specified date. This order provides for a fully consecutive sentence if the defendant is released on the undischarged term of imprisonment on or before the date specified in the order, and a partially concurrent sentence if the defendant is not released on the undischarged term of imprisonment by that date.

(C) **Undischarged Terms of Imprisonment Resulting from Revocations of Probation, Parole or Supervised Release.—**Subsection (d) applies in cases in which the defendant was on federal or state probation, parole, or supervised release at the time of the instant offense and has had such probation, parole, or supervised release revoked. Consistent with the policy set forth in Application Note 3 and subsection (f) of §7B1.3 (Revocation of Probation), the Commission recommends that the sentence for the instant offense be imposed consecutively to the sentence imposed for the revocation.

(D) **Complex Situations.—**Occasionally, the court may be faced with a complex case in which a defendant may be subject to multiple undischarged terms of imprisonment that seemingly call for the application of different rules. In such a case, the court may exercise its discretion in accordance with subsection (d) to fashion a sentence of appropriate length and structure it to run in any appropriate manner to achieve a reasonable punishment for the instant offense.

(E) **Imposition of Sentence.—**Unlike subsection (b), subsection (d) does not address an adjustment of the sentence for the instant offense for a period of imprisonment already served on the undischarged term of imprisonment. If the court does account for an undischarged term of imprisonment under subsection (d) in imposing the sentence, the Commission recommends that the court clearly state that the sentence was imposed pursuant to 18 U.S.C.

§ 3553(a), rather than as a credit for time served, to avoid confusion with the Federal Bureau of Prisons' exclusive authority provided under 18 U.S.C. § 3585(b) to grant credit for time served under certain circumstances.

The court should note on the Judgment in a Criminal Case Order (i) that the sentence was imposed pursuant to 18 U.S.C. § 3553(a); (ii) the amount of time by which the sentence is being adjusted; (iii) the undischarged term of imprisonment for which the adjustment is being given and the relevant case information (including docket number); and (iv) that the sentence imposed is to account for a period of imprisonment that will not be credited by the Federal Bureau of Prisons.

5. **Discharged Term of Imprisonment.**—This guideline does not address an adjustment of the sentence for the instant offense for a period of imprisonment already served on a discharged term of imprisonment. Nonetheless, nothing in the Guidelines Manual abrogates a court's authority under 18 U.S.C. § 3553(a) to consider a previously completed term of imprisonment in determining an appropriate sentence where subsection (b) above would have provided an adjustment had that completed term of imprisonment been undischarged at the time of sentencing for the instant offense.

**Background:** Federal courts generally "have discretion to select whether the sentences they impose will run concurrently or consecutively with respect to other sentences that they impose, or that have been imposed in other proceedings, including state proceedings." *See Setser v. United States*, 566 U.S. 231, 236 (2012); 18 U.S.C. § 3584(a). Federal courts also generally have discretion to order that the sentences they impose will run concurrently with or consecutively to other state sentences that are anticipated but not yet imposed. *See Setser*, 566 U.S. at 236. Exercise of that discretion, however, is predicated on the court's consideration of the factors listed in 18 U.S.C. § 3553(a), including any applicable guidelines or policy statements issued by the Sentencing Commission.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 289); November 1, 1991 (amendment 385); November 1, 1992 (amendment 465); November 1, 1993 (amendment 494); November 1, 1995 (amendment 535); November 1, 2002 (amendment 645); November 1, 2003 (amendment 660); November 1, 2010 (amendment 747); November 1, 2013 (amendment 776).; November 1, 2014 (amendments 782, 787, and 789); November 1, 2016 (amendment 802); November 1, 2023 (amendment 824); November 1, 2025 (amendments 835 and 836); November 1, 2026 (amendment 843). |

# PART H — [DELETED]

| | |
|---|---|
| *Historical Note* | The heading to Part H — Specific Offender Characteristics, effective November 1, 1987, was deleted due to the deletion of §§5H1.1 through 5H1.12 effective November 1, 2025 (amendment 836). The Introductory Commentary to Part H, effective November 1, 1987, and amended effective November 1, 1990 (amendment 357), November 1, 1991 (amendment 386), November 1, 1994 (amendment 508), October 27, 2003 (amendment 651), November 1, 2010 (amendment 739), and November 1, 2023 (amendment 824), was deleted effective November 1, 2025 (amendment 836). |

## §5H1.1 – 5H1.12. [Deleted]

| | |
|---|---|
| *Historical Note* | Section 5H1.1 (Age (Policy Statement)), effective November 1, 1987, and amended effective November 1, 1991 (amendment 386), November 1, 1993 (amendment 475), October 27, 2003 (amendment 651), November 1, 2004 (amendment 674), November 1, 2010 (amendment 739), and November 1, 2024 (amendment 829), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.2 (Education and Vocational Skills (Policy Statement)), effective November 1, 1987, and amended effective November 1, 1991 (amendment 386) and November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.3 (Mental and Emotional Conditions (Policy Statement)), effective November 1, 1987, and amended effective November 1, 1991 (amendment 386), November 1, 1997 (amendment 569), November 1, 2004 (amendment 674), November 1, 2010 (amendment 739), November 1, 2018 (amendment 811), and November 1, 2025 (amendment 835), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.4 (Physical Condition, Including Drug or Alcohol Dependence or Abuse; Gambling Addiction (Policy Statement)), effective November 1, 1987, and amended effective November 1, 1991 (amendment 386), November 1, 1997 (amendment 569), October 27, 2003 (amendment 651), November 1, 2010 (amendment 739), November 1, 2018 (amendment 811), and November 1, 2025 (amendment 835), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.5 (Employment Record (Policy Statement)), effective November 1, 1987, and amended effective November 1, 1991 (amendment 386) and November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.6 (Family Ties and Responsibilities (Policy Statement)), effective November 1, 1987, and amended effective November 1, 1991 (amendment 386), April 30, 2003 (amendment 649), October 27, 2003 (amendment 651), and November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.7 (Role in the Offense (Policy Statement)), effective November 1, 1987, and amended effective October 27, 2003 (amendment 651), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.8 (Criminal History (Policy Statement)), effective November 1, 1987, and amended effective October 27, 2003 (amendment 651), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.9 (Dependence upon Criminal Activity for a Livelihood (Policy Statement)), effective November 1, 1987, was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.10 (Race, Sex, National Origin, Creed, Religion, and Socio-Economic Status (Policy Statement)), effective November 1, 1987, was deleted November 1, 2025 (amendment 836).<br><br>Section 5H1.11 (Military, Civic, Charitable, or Public Service; Employment-Related Contributions; Record of Prior Good Works (Policy Statement)), effective November 1, 1991 (amendment 386), and amended effective November 1, 2004 (amendment 674) and November 1, 2010 (amendment 739), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5H1.12 (Lack of Guidance as a Youth and Similar Circumstances (Policy Statement)), effective November 1, 1992 (amendment 466), and amended effective November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836). |

# PART I — [NOT USED]

# PART J — RELIEF FROM DISABILITY

| *Historical Note* | Effective November 1, 1987. Amended effective June 15, 1988 (amendment 55). |
|---|---|

## §5J1.1. Relief from Disability Pertaining to Convicted Persons Prohibited from Holding Certain Positions (Policy Statement)

A collateral consequence of conviction of certain crimes described in 29 U.S.C. §§ 504 and 1111 is the prohibition of convicted persons from service and employment with labor unions, employer associations, employee pension and welfare benefit plans, and as labor relations consultants in the private sector. A convicted person's prohibited service or employment in such capacities without having been granted one of the following three statutory procedures of administrative or judicial relief is subject to criminal prosecution. First, a disqualified person whose citizenship rights have been fully restored to him or her in the jurisdiction of conviction, following the revocation of such rights as a result of the disqualifying conviction, is relieved of the disability. Second, a disqualified person convicted after October 12, 1984, may petition the sentencing court to reduce the statutory length of disability (thirteen years after date of sentencing or release from imprisonment, whichever is later) to a lesser period (not less than three years after date of conviction or release from imprisonment, whichever is later). Third, a disqualified person may petition either the United States Parole Commission or a United States District Court judge to exempt his or her service or employment in a particular prohibited capacity pursuant to the procedures set forth in 29 U.S.C. §§ 504(a)(B) and 1111(a)(B). In the case of a person convicted of a disqualifying crime committed before November 1, 1987, the United States Parole Commission will continue to process such exemption applications.

In the case of a person convicted of a disqualifying crime committed on or after November 1, 1987, however, a petition for exemption from disability must be directed to a United States District Court. If the petitioner was convicted of a disqualifying federal offense, the petition is directed to the sentencing judge. If the petitioner was convicted of a disqualifying state or local offense, the petition is directed to the United States District Court for the district in which the offense was committed. In such cases, relief shall not be given to aid rehabilitation, but may be granted only following a clear demonstration by the convicted person that he or she has been rehabilitated since commission of the disqualifying crime and can therefore be trusted not to endanger the organization in the position for which he or she seeks relief from disability.

| *Historical Note* | Effective November 1, 1987. Amended effective June 15, 1988 (amendment 56). |
|---|---|

# PART K — ASSISTANCE TO AUTHORITIES

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 2025 (amendment 836). The heading to Part K, Subpart 1 (Substantial Assistance to Authorities), effective November 1, 1987, was deleted due to the change to the heading to Part K (Departures) and the deletion of Part K, Subparts 2 (Other Grounds for Departure) and 3 (Early Disposition Programs) effective November 1, 2025 (amendment 836). |

## §5K1.1. Substantial Assistance to Authorities (Policy Statement)

Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, a sentence that is below the otherwise applicable guideline range may be appropriate.

(a) The appropriate reduction shall be determined by the court for reasons stated that may include, but are not limited to, consideration of the following:

(1) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the government's evaluation of the assistance rendered;

(2) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant;

(3) the nature and extent of the defendant's assistance;

(4) any injury suffered, or any danger or risk of injury to the defendant or his family resulting from his assistance;

(5) the timeliness of the defendant's assistance.

### Commentary

**Application Notes:**

1. **Sentence Below Statutorily Required Minimum Sentence.**—Under circumstances set forth in 18 U.S.C. § 3553(e) and 28 U.S.C. § 994(n), as amended, substantial assistance in the investigation or prosecution of another person who has committed an offense may justify a sentence below a statutorily required minimum sentence.

2. **Interaction with Acceptance of Responsibility Reduction.**—The sentencing reduction for assistance to authorities shall be considered independently of any reduction for acceptance of responsibility. Substantial assistance is directed to the investigation and prosecution of criminal activities by persons other than the defendant, while acceptance of responsibility is directed to the defendant's affirmative recognition of responsibility for his own conduct.

3. **Government's Evaluation of Extent of Defendant's Assistance.**—Substantial weight should be given to the government's evaluation of the extent of the defendant's assistance, particularly where the extent and value of the assistance are difficult to ascertain.

**Background:** A defendant's assistance to authorities in the investigation of criminal activities has been recognized in practice and by statute as a mitigating sentencing factor. The nature, extent, and significance of assistance can involve a broad spectrum of conduct that must be evaluated by the court on an individual basis. Latitude is, therefore, afforded the sentencing judge to reduce a sentence based upon variable relevant factors, including those listed above. The sentencing judge must, however, state the reasons for reducing a sentence under this section. 18 U.S.C. § 3553(c). The court may elect to provide its reasons to the defendant in camera and in writing under seal for the safety of the defendant or to avoid disclosure of an ongoing investigation.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 290); November 1, 2024 (amendment 831); November 1, 2025 (amendment 836). |

## §5K1.2. Refusal to Assist (Policy Statement)

A defendant's refusal to assist authorities in the investigation of other persons may not be considered as an aggravating sentencing factor.

| | |
|---|---|
| *Historical Note* | Effective November 1, 1987. Amended effective November 1, 1989 (amendment 291). |

* * * * *

## 2. [DELETED]

| | |
|---|---|
| *Historical Note* | The heading to Part K, Subpart 2 (Other Grounds for Departure), effective November 1, 1987, and amended effective November 1, 1990 (amendment 358), was deleted effective November 1, 2025 (amendment 836) due to the deletion of §§5K2.0 through 5K2.24 effective November 1, 1995 (amendment 526), November 1, 2012 (amendment 768), and November 1, 2025 (amendment 836). |

## §§5K2.0 –5K2.24. [Deleted]

| | |
|---|---|
| *Historical Note* | Section 5K2.0 (Grounds for Departure (Policy Statement)), effective November 1, 1987, and amended effective June 15, 1988 (amendment 57), November 1, 1990 (amendment 358), November 1, 1994 (amendment 508), November 1, 1997 (amendment 561), November 1, 1998 (amendment 585), April 30, 2003 (amendment 649), October 27, 2003 (amendment 651), November 1, 2008 (amendment 725), November 1, 2010 (amendment 739), November 1, 2011 (amendment 757), November 1, 2012 (amendment 770), and November 1, 2024 (amendment 831), was deleted effective November 1, 2025 (amendment 836).<br><br>Sections 5K2.1 (Death (Policy Statement)), 5K2.2 (Physical Injury (Policy Statement)), 5K2.3 (Extreme Psychological Injury (Policy Statement)), 5K2.4 (Abduction or Unlawful Restraint (Policy Statement)), 5K2.5 (Property Damage or Loss (Policy Statement)), 5K2.6 (Weapons and Dangerous Instrumentalities (Policy Statement)), 5K2.7 (Disruption of Governmental Function (Policy Statement)), 5K2.8 (Extreme Conduct (Policy Statement)), and 5K2.9 (Criminal Purpose (Policy Statement)), effective November 1, 1987, were deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.10 (Victim's Conduct (Policy Statement)), effective November 1, 1987, and amended effective October 27, 2003 (amendment 651), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.11 (Lesser Harms (Policy Statement)), effective November 1, 1987, was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.12 (Coercion and Duress (Policy Statement)), effective November 1, 1987, and amended effective October 27, 2003 (amendment 651) and November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.13 (Diminished Capacity (Policy Statement)), effective November 1, 1987, and amended effective November 1, 1998 (amendment 583), April 30, 2003 (amendment 649), October 27, 2003 (amendment 651), and November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.14 (Public Welfare (Policy Statement)), effective November 1, 1987, and amended effective November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.15 (Terrorism (Policy Statement)), effective November 1, 1989 (amendment 292), was deleted effective November 1, 1995 (amendment 526).<br><br>Section 5K2.16 (Voluntary Disclosure of Offense (Policy Statement)), effective November 1, 1991 (amendment 420), and amended effective November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.17 (Semiautomatic Firearms Capable of Accepting Large Capacity Magazine (Policy Statement)), effective November 1, 1995 (amendment 531), and amended effective November 1, 2006 (amendment 691) and November 1, 2010 (amendment 746), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.18 (Violent Street Gangs (Policy Statement)), effective November 1, 1995 (amendment 532), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.19 (Post-Sentencing Rehabilitative Efforts (Policy Statement)), effective November 1, 2000 (amendment 602), was deleted effective November 1, 2012 (amendment 768).<br><br>Section 5K2.20 (Aberrant Behavior (Policy Statement)), effective November 1, 2000 (amendment 603), and amended effective April 30, 2003 (amendment 649) and October 27, 2003 (amendment 651), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.21 (Dismissed and Uncharged Conduct (Policy Statement)), effective November 1, 2000 (amendment 604), and amended effective November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.22 (Specific Offender Characteristics as Grounds for Downward Departure in Child Crimes and Sexual Offenses (Policy Statement)), effective April 30, 2003 (amendment 649), and amended effective November 1, 2004 (amendment 674), was deleted effective November 1, 2025 (amendment 836). |

| | |
|---|---|
| | Section 5K2.23 (Discharged Terms of Imprisonment (Policy Statement)), effective November 1, 2003 (amendment 660), and amended effective November 1, 2004 (amendment 674) and November 1, 2014 (amendment 787), was deleted effective November 1, 2025 (amendment 836).<br><br>Section 5K2.24 (Commission of Offense While Wearing or Displaying Unauthorized or Counterfeit Insignia or Uniform (Policy Statement)), effective November 1, 2007 (amendment 700), was deleted effective November 1, 2025 (amendment 836). |

* * * * *

### 3. [DELETED]

| | |
|---|---|
| *Historical Note* | The heading to Part K, Subpart 3 (Early Disposition Programs), effective October 27, 2003 (amendment 651), was deleted due to the deletion of §5K3.1 effective November 1, 2025 (amendment 836). |

## §5K3.1. [Deleted]

| | |
|---|---|
| *Historical Note* | Section 5K3.1 (Early Disposition Programs (Policy Statement)), effective October 27, 2003 (amendment 651), was deleted from Chapter Five and replaced by §3F1.1 effective November 1, 2025 (amendment 836). |