

Prison and Sentencing Impact Assessments for 2016 Guideline Amendments to the Federal Sentencing Guidelines

For a complete description of the 2016 amendments, please visit http://www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly-amendments/20160428_RF.pdf.

1) Compassionate Release

The Commission does not have sufficient information to perform a prison impact analysis. In particular, the Commission does not have access to information about the nature and extent of health or family conditions among inmates currently incarcerated and who may be eligible for compassionate release under the guideline as it will be amended. However, given the low numbers of applications for compassionate release each year (585 in calendar year 2015), the Commission expects the proposed changes will have minimal impact on the size of the federal prison population.

2) Animal Fighting

The Commission does not have sufficient information to perform a sentencing and prison impact analysis.

The Commission's standard methodology for estimating the impact of a proposed guideline change examines sentencing data from the most immediate prior fiscal year and uses it as a proxy for offenders who would be sentenced under that guideline, as amended. That methodology assumes that individual defendants who received an upward departure under the existing guideline would receive a proportionally equivalent upward departure under the new guideline. That assumption is unlikely to be accurate with respect to the amended animal fighting provisions, because many of the defendants who received significant upward departures would be at much higher guidelines ranges under the amended guideline and the Commission is unable to assess whether, and to what extent, courts would depart upward as often in those cases under the guideline as amended. An examination of the average guideline minimum sentence for these cases is an alternate estimate of the overall quantitative impact of the amendment. The current average guideline minimum sentence for animal fighting offenders is four months. Under the amendment, the new average guideline minimum sentence is estimated to be 16 months.

However, because of the small number of offenders sentenced under U.S.S.G. §2E3.1 (102 in fiscal year 2015), the impact to the prison population is expected to be negligible.

3) Child Pornography Circuit Conflict

The Commission does not have sufficient information to perform a prison impact analysis. This amendment addresses circuit conflicts and application issues related to the child pornography guidelines. One issue addressed by the amendment would require the court to consider the age of the victims of these offenses when determining the sentencing guideline range. The Commission does not collect information on the age of the victims of crimes and so cannot perform an analysis of the impact of this amendment.

4) Immigration

The Commission does not have sufficient information to perform a sentencing or prison impact analysis. The amendment would require courts to consider the age of the victims involved in alien smuggling offenses when determining the sentencing guideline range for those offenses. The Commission does not collect information on the age of the victims of crimes and so cannot perform an analysis of the impact of this portion of the amendment.

Additionally, the amendment will require, in part, that courts consider several new factors when determining the sentencing guideline range in illegal reentry offenses. Among these factors is the length of any prior sentence imposed on the offender for any felony offense for which the offender was convicted prior to the instant federal reentry offense. The Commission does not regularly collect the length of sentence imposed on federal offenders in connection with prior criminal convictions, therefore, the Commission is estimate the sentencing and prison impact of this portion of the amendment.

However, an examination of the average guideline minimum sentence for these cases is an alternate estimate of the overall quantitative impact of the amendment. The current average guideline minimum sentence for illegal reentry offenders is 21 months. Under the amendment, the new average guideline minimum sentence is estimated to be 18 months.

5) Conditions of Supervision

Because this amendment concerns supervised release only, it does not have a sentencing or prison impact.

6) Recently Enacted Legislation and Miscellaneous Guidelines Application Issues

The Commission has no data with which to perform a sentencing or prison impact analysis. The Commission cannot estimate impact of newly-enacted statutes because it has no data on which to estimate the number of offenders who may be sentenced under those statutes or the sentences that may be imposed.

The miscellaneous amendment to U.S.S.G. §2M6.1 does not change the application of that guideline and, therefore, has no sentencing or prison impact.

The miscellaneous amendments to U.S.S.G. §§2T1.6, 2T2.1, and 2T2.2 do not change the application of those guidelines and, therefore, have no sentencing or prison impact.

For more information about why the Commission may not perform prison and sentencing impact assessments, see the Frequently Asked Questions:

<http://www.ussc.gov/research-and-publications/most-frequently-asked-questions-prison-sentencing-impact-assessments>.