

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding technical and conforming amendments to federal sentencing guidelines effective November 1, 2008.

SUMMARY: On May 1, 2008, the Commission submitted to Congress amendments to the federal sentencing guidelines and published these amendments in the Federal Register on May 9, 2008. See 73 FR 26924. The Commission has made technical and conforming amendments, set forth in this notice, to commentary provisions related to those amendments.

DATES: The Commission has specified an effective date of November 1, 2008, for the amendments set forth in this notice.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer,
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SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States government, is authorized by 28 U.S.C. § 994(a) to promulgate sentencing guidelines and policy statements for federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. See 28 U.S.C. § 994(o), (p). Absent an affirmative disapproval by Congress within 180 days after the Commission submits its amendments, the amendments become effective on the date specified by the Commission (typically November 1 of the same calendar year). See 28 U.S.C. § 994(p).

Unlike amendments made to sentencing guidelines, amendments to commentary may be made at any time and are not subject to congressional review. To the extent practicable, the Commission endeavors to include amendments to commentary in any submission of guideline amendments to Congress. Occasionally, however, the Commission determines that technical and conforming changes to commentary are necessary. This notice sets forth technical and conforming amendments to commentary that will become effective on November 1, 2008.

AUTHORITY: USSC Rules of Practice and Procedure 4.1.

Ricardo H. Hinojosa,

Chair

Technical and Conforming Amendments

1. Amendment: Chapter One, as amended by Amendment 1 submitted to Congress on May 1, 2008 (73 FR 26924; USSG App. C (amendment 717)), is amended in the heading by inserting a comma after "AUTHORITY".

The Commentary to §2A3.1 captioned "Application Notes" is amended in Note 5 by striking "(c)(1)" each place it appears and inserting "(c)(2)".

The Commentary to §2B1.1 captioned "Application Notes" is amended in Note 3(F)(i) by striking "7(A)" and inserting "9(A)".

The Commentary to §5K2.0 captioned "Background" is amended in the second paragraph by striking "Historical Note to §1A1.1 (Authority)" and inserting "Chapter One, Part A".

Appendix A (Statutory Index) is amended by inserting after the line reference to 18 U.S.C. § 1039 the following:

"18 U.S.C. § 1040 2B1.1".

Reason for Amendment: This amendment makes various technical and conforming changes. Specifically, the amendment makes a clerical change to the chapter heading of Chapter One; corrects inaccurate references in the Commentary to §2A3.1 Criminal Sexual Abuse; Attempt to Commit Criminal Sexual Abuse), §2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States), and §5K2.0 (Grounds for Departure), and amends Appendix A (Statutory Index) to repromulgate the line reference to 18 U.S.C. § 1040, which had been added by Amendment 714 (see USSG App. C (Amendment 714)).