

SECOND REVISED PROPOSED AMENDMENT: DISCHARGED TERMS OF IMPRISONMENT

Synopsis of Proposed Amendment: This proposed amendment responds to the Criminal Law Committee's request that the Commission amend §5G1.3 to include discharged terms of imprisonment. The amendment proposes to amend the Commentary to provide a downward departure note that enables a court to depart in a case in which subsection (b), pertaining to undischarged terms of imprisonment, would have applied if the term of imprisonment had not been discharged.

Proposed Amendment:

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

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Commentary

Application Notes:

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- 7. Downward Departure Provision.—In the case of a discharged term of imprisonment, a downward departure is not prohibited if subsection (b) would have applied to that term of imprisonment, had the term been undischarged. Any such departure should be fashioned to achieve a reasonable punishment for the instant offense.*