

# U.S. Sentencing Commission Makes Guidelines Amendments Retroactive

## The Federal Docket

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Last week, the U.S. Sentencing Commission voted to make a pair of Guidelines amendments retroactive, meaning they could apply to thousands of federal inmates serving time. Under 18 U.S.C. 3582(c)(2), "in the case of defendant who has been sentenced to a term of imprisonment based on a range that has subsequently been lowered by the Sentencing Commission...upon motion of the defendant ...the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent they are applicable ...."

In a 4-3 vote, the Commission voted to make the "status points" amendment retroactive. Whereas [a defendant previously received 2 points for committing an offense while under a term of supervision \(probation, supervised release\)](#), the new Guidelines amendment will reduce the number of points or eliminates them completely for such offenders. [By making this amendment retroactive to offenders who previously received the 2-point enhancement, almost 11,500 inmates are eligible for a potential sentence reduction.](#) The average inmate would have had a lower Guidelines range by 14 months under the new Guidelines.

In another 4-3 vote, the Commission voted to make the **"zero point offender" amendment retroactive**. Under the new Guidelines, **offenders will receive a 2-point reduction to their offense level if they have no criminal history and their offense does not present certain aggravating factors**. Over 7,272 inmates would have been eligible for this reduction, and the average inmate would have had a lower Guidelines range by 15 months under the new Guidelines.

The retroactive amendments go into effect on February 1, 2024, though inmates can file motions for sentence reductions immediately. In other Commission-related news, the Commission voted to consider additional policies such as "possible amendments to the Guidelines Manual to prohibit the use of acquitted conduct in applying the guidelines.