

Durbin Leads Two Public Comments On Proposed Amendments To Fed Sentencing Guidelines

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Durbin-led letters include comments on amendments to limit consideration of acquitted conduct, as well as juvenile convictions and sentences, for sentencing purposes

WASHINGTON – U.S. Senate Majority Whip Dick Durbin (D-IL), Chair of the Senate Judiciary Committee, led two groups of colleagues in submitting public comment letters to U.S. Sentencing Commission Chair Carlton Reeves regarding proposed amendments to the Federal Sentencing Guidelines.

Durbin's letter addressing proposed amendments to limit consideration of acquitted conduct is joined by U.S. Senator Cory Booker (D-NJ), Chair of the Subcommittee on Criminal Justice and Counterterrorism. Booker is an original cosponsor of Durbin's [*Prohibiting Punishment of Acquitted Conduct Act*](#), which would end the unjust practice of judges increasing sentences based on conduct for which a defendant has been acquitted by a jury.

The Senators applaud these proposed amendments and the Commission's identification of this issue as a top priority, writing: "ases challenging the problematic use of acquitted conduct for sentencing purposes have continued to percolate through the courts, and widespread criticism of the practice still exists. However, the Supreme Court has declined to hear these cases, with several justices signaling support for the Commission to address the issue before the Court does. Accordingly, we write in support of the Commission amending U.S.S.G. § 1B1.3 to preclude consideration of acquitted conduct when determining the Sentencing Guidelines range."

The Senators then recommend implementation of Option 1, writing: "We urge the Commission to implement Option 1, which if enacted would 'add a new subsection (c) providing that acquitted conduct is not relevant conduct for purposes of determining the guideline range.' Options 2 and 3, which continue to permit consideration of acquitted conduct in the guideline range calculation, would not adequately ensure that important procedural safeguards—such as due process and the right to jury trial—are preserved throughout the sentencing stage of criminal proceedings."

Durbin's letter addressing proposed amendments to limit consideration of juvenile convictions and sentences in calculating a Sentencing Guidelines range is joined by U.S. Senators Sheldon Whitehouse (D-RI) and Peter Welch (D-VT).

The Senators urge the implementation of Option 2, writing: "Given the wide array of literature demonstrating that brain development continues throughout adolescence, we urge the Commission to adopt Part A Option 2—to 'amend § 4A1.2(d) to exclude all juvenile sentences from being considered in the calculation of the criminal history score' and make conforming changes to additional Guidelines provisions and Commentary. Option 2 strikes an appropriate balance between the need to incorporate modern scientific and medical understanding about youth brain development into the federal sentencing scheme, and the importance of capturing the most serious offenses in the criminal history score calculation."