

## §7B1.5

- (B) is not less than any minimum term of imprisonment required by statute.

### Commentary

#### Application Notes:

1. The criminal history category to be used in determining the applicable range of imprisonment in the Probation Revocation Table is the category determined at the time the defendant originally was sentenced to the term of probation. The criminal history category is not to be recalculated because the ranges set forth in the Probation Revocation Table have been designed to take into account that the defendant violated probation. *Example:* A defendant, who was originally sentenced in 2022, was determined to have a criminal history category of II due in part to having committed the offense “while under any criminal justice sentence.” See §4A1.1(d) (Criminal History Category) (Nov. 2021). For purposes of determining the applicable range of imprisonment in the Probation Revocation Table, the defendant’s criminal history category is category II, regardless of whether the defendant’s criminal history category would be reduced for other purposes based on the retroactive application of Part A of Amendment 821 pursuant to §1B1.10 (Reduction of Imprisonment as a Result of Amended Guideline Range (Policy Statement)). See USSG App. C, Amendment 825 (effective November 1, 2023).

In the rare case in which no criminal history category was determined when the defendant originally was sentenced to the term of probation being revoked, the court shall determine the criminal history category that would have been applicable at the time the defendant originally was sentenced to the term of probation. (See the criminal history provisions of §§4A1.1–4B1.4.)

2. Upon a finding that a defendant violated a condition of probation by being in possession of a controlled substance or firearm or by refusing to comply with a condition requiring drug testing, the court is required to revoke probation and impose a sentence that includes a term of imprisonment. 18 U.S.C. § 3565(b).
3. In the case of a defendant who fails a drug test, the court shall consider whether the availability of appropriate substance abuse programs, or a defendant’s current or past participation in such programs, warrants an exception from the requirement of mandatory revocation and imprisonment under 18 U.S.C. § 3565(b). 18 U.S.C. § 3563(a).

*Historical Note*

Effective November 1, 1990 (amendment 362); November 1, 1995 (amendment 533); November 1, 2010 (amendment 747); November 1, 2025 (amendments 835 and 836).

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## §7B1.5. No Credit for Time on Probation (Policy Statement)

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Upon revocation of probation, no credit shall be given (toward any sentence of imprisonment imposed) for any portion of the term of probation served prior to revocation.

### Commentary

**Background:** This section provides that time served on probation is not to be credited in the determination of any term of imprisonment imposed upon revocation. Other aspects of the defendant’s conduct, such as compliance with probation conditions and adjustment while on probation, appropriately