

Section 3583(d) incorporates this section by reference. The Senate Judiciary Committee Report on the Comprehensive Crime Control Act explains that the provision was “intended to be used to preclude the continuation or repetition of illegal activities while avoiding a bar from employment that exceeds that needed to achieve that result.” S. Rep. No. 225, 98th Cong., 1st Sess. 96–97. The condition “should only be used as reasonably necessary to protect the public. It should not be used as a means of punishing the convicted person.” *Id.* at 96. Section 5F1.5 accordingly limits the use of the condition and, if imposed, limits its scope, to the minimum reasonably necessary to protect the public.

The appellate review provisions permit a defendant to challenge the imposition of a probation condition under 18 U.S.C. § 3563(b)(5) if the sentence includes a more limiting condition of probation or supervised release than the maximum established in the guideline. *See* 18 U.S.C. § 3742(a)(3). The government may appeal if the sentence includes a less limiting condition of probation than the minimum established in the guideline. *See* 18 U.S.C. § 3742(b)(3).

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1989 (amendments 285 and 302); November 1, 1991 (amendment 428); November 1, 2002 (amendment 646).
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§5F1.6. Denial of Federal Benefits to Drug Traffickers and Possessors

The court, pursuant to 21 U.S.C. § 862, may deny the eligibility for certain federal benefits of any individual convicted of distribution or possession of a controlled substance.

Commentary

Application Note:

1. **Definition of “Federal Benefit”.**—“*Federal benefit*” is defined in 21 U.S.C. § 862(d) to mean “any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States” but “does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.”

Background: Subsections (a) and (b) of 21 U.S.C. § 862 provide that an individual convicted of a state or federal drug trafficking or possession offense may be denied certain federal benefits. Except for an individual convicted of a third or subsequent drug distribution offense, the period of benefit ineligibility, within the applicable maximum term set forth in 21 U.S.C. § 862(a)(1) (for distribution offenses) and (b)(1)(for possession offenses), is at the discretion of the court. In the case of an individual convicted of a third or subsequent drug distribution offense, denial of benefits is mandatory and permanent under 21 U.S.C. § 862(a)(1)(C) (unless suspended by the court under 21 U.S.C. § 862(c)).

Subsection (b)(2) of 21 U.S.C. § 862 provides that the period of benefit ineligibility that may be imposed in the case of a drug possession offense “shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.”

Subsection (c) of 21 U.S.C. § 862 provides that the period of benefit ineligibility shall be suspended “if the individual (A) completes a supervised drug rehabilitation program after becoming ineligible under this section; (B) has otherwise been rehabilitated; or (C) has made a good faith effort to