

2. **Convictions under 18 U.S.C. § 1841(a)(1).**—If the defendant is convicted under 18 U.S.C. § 1841(a)(1), the Chapter Two offense guideline that applies is the guideline that covers the conduct the defendant is convicted of having engaged in, *i.e.*, the conduct of which the defendant is convicted that violates a specific provision listed in 18 U.S.C. § 1841(b) and that results in the death of, or bodily injury to, a child in utero at the time of the offense of conviction. For example, if the defendant committed aggravated sexual abuse against the unborn child’s mother and it caused the death of the child in utero, the applicable Chapter Two guideline would be §2A3.1 (Criminal Sexual Abuse; Attempt to Commit Criminal Sexual Abuse).
3. **Application of §2X5.2.**—This guideline applies only to felony offenses not referenced in Appendix A (Statutory Index). For Class A misdemeanor offenses that have not been referenced in Appendix A, apply §2X5.2 (Class A Misdemeanors (Not Covered by Another Specific Offense Guideline)).

**Background:** Many offenses, especially assimilative crimes, are not listed in the Statutory Index or in any of the lists of Statutory Provisions that follow each offense guideline. Nonetheless, the specific guidelines that have been promulgated cover the type of criminal behavior that most such offenses proscribe. The court is required to determine if there is a sufficiently analogous offense guideline, and, if so, to apply the guideline that is most analogous. In a case in which there is no sufficiently analogous guideline, the provisions of 18 U.S.C. § 3553 control.

The sentencing guidelines apply to convictions under 18 U.S.C. § 13 (Assimilative Crimes Act) and 18 U.S.C. § 1153 (Indian Major Crimes Act); *see* 18 U.S.C. § 3551(a), as amended by section 1602 of Public Law 101–647.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective June 15, 1988 (amendment 43); November 1, 1991 (amendment 412); November 1, 1997 (amendment 569); November 1, 2006 (amendment 685); November 1, 2014 (amendment 787); November 1, 2025 (amendment 836).
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## **§2X5.2. Class A Misdemeanors (Not Covered by Another Specific Offense Guideline)**

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### (a) Base Offense Level: 6

#### **Commentary**

**Statutory Provisions:** 10 U.S.C. § 2733a(g)(2); 18 U.S.C. §§ 39B, 1365(f), 1801, 2259(d)(4); 34 U.S.C. § 12593; 49 U.S.C. § 31310. For additional statutory provision(s), *see* Appendix A (Statutory Index).

#### **Application Note:**

1. **In General.**—This guideline applies to Class A misdemeanor offenses that are specifically referenced in Appendix A (Statutory Index) to this guideline. This guideline also applies to Class A misdemeanor offenses that have not been referenced in Appendix A. Do not apply this guideline to a Class A misdemeanor that has been specifically referenced in Appendix A to another Chapter Two guideline.