

Immigration Consequences of Crimes Summary Checklist *

Immigrant Defense Project

CRIMINAL INADMISSIBILITY GROUNDS – Will or may prevent a noncitizen from being able to obtain lawful status in the U.S. May also prevent a noncitizen who already has lawful status from being able to return to the U.S. from a trip abroad in the future.	CRIMINAL DEPORTATION GROUNDS – Will or may result in deportation of a noncitizen who already has lawful status, such as a lawful permanent resident (LPR) green card holder.	CRIMINAL BARS ON OBTAINING U.S. CITIZENSHIP – Will prevent an LPR from being able to obtain U.S. citizenship.
Conviction or admitted commission of a Controlled Substance Offense , or DHS reason to believe that the individual is a drug trafficker	Conviction of a Controlled Substance Offense EXCEPT a single offense of simple possession of 30g or less of marijuana	Conviction or admission of the following crimes bars the finding of good moral character required for citizenship for up to 5 years: ➤ Controlled Substance Offense (unless single offense of simple possession of 30g or less of marijuana) ➤ Crime Involving Moral Turpitude (unless single CIMT and the offense is not punishable > 1 year (e.g., in New York, not a felony) + does not involve a prison sentence > 6 months) ➤ 2 or more offenses of any type + aggregate prison sentence of 5 years ➤ 2 gambling offenses ➤ Confinement to a jail for an aggregate period of 180 days
Conviction or admitted commission of a Crime Involving Moral Turpitude (CIMT) , which category includes a broad range of crimes, including: ♦ Crimes with an <i>intent to steal or defraud</i> as an element (e.g., theft, forgery) ♦ Crimes in which <i>bodily harm</i> is caused or threatened by an intentional act, or <i>serious bodily harm</i> is caused or threatened by a reckless act (e.g., murder, rape, some manslaughter/assault crimes) ♦ Most sex offenses <i>Petty Offense Exception</i> – for one CIMT if the client has no other CIMT + the offense is not punishable >1 year + does not involve a prison sentence > 6 mos.	Conviction of a Crime Involving Moral Turpitude (CIMT) [see Criminal Inadmissibility Gds] ➤ One CIMT committed within 5 years of admission into the US and for which a prison sentence of 1 year or longer may be imposed ➤ Two CIMTs committed at any time “not arising out of a single scheme”	Conviction of an Aggravated Felony on or after Nov. 29, 1990 (and conviction of murder at any time) <i>permanently</i> bars the finding of moral character required for citizenship “CONVICTION” as defined for immigration purposes A formal judgment of guilt of the noncitizen entered by a court, OR, if adjudication of guilt has been withheld, where: (i) A judge or jury has found the noncitizen guilty or the noncitizen has entered a plea of guilty or <i>no contendere</i> or has admitted sufficient facts to warrant a finding of guilt, and (ii) the judge has ordered some form of punishment, penalty, or restraint on the noncitizen’s liberty to be imposed THUS: ➤ A court-ordered drug treatment or domestic violence counseling alternative to incarceration disposition <u>IS</u> a conviction for immigration purposes if a guilty plea is taken (even if the guilty plea is or might later be vacated) ➤ A deferred adjudication without a guilty plea <u>IS NOT</u> a conviction ➤ NOTE: A youthful offender adjudication <u>IS NOT</u> a conviction if analogous to a federal juvenile delinquency adjudication
Conviction of two or more offenses of any type + aggregate prison sentence of 5 yrs.	Conviction of a Firearm or Destructive Device Offense	Conviction of a Crime of Domestic Violence, Crime Against Children, Stalking, or Violation of Protection Order (criminal or civil)
Prostitution and Commercialized Vice Conviction of two or more offenses of any type + aggregate prison sentence of 5 yrs.	Conviction of an Aggravated Felony ➤ <i>Consequences</i> , in addition to deportability: ♦ Ineligibility for most waivers of removal ♦ Permanent inadmissibility after removal ♦ Enhanced prison sentence for illegal reentry ➤ <i>Crimes included</i> , probably even if not a felony: ♦ Murder ♦ Rape ♦ Sexual Abuse of a Minor ♦ Drug Trafficking (including most sale or intent to sell offenses, but also including possession of any amount of flunitrazepam and possibly certain second or subsequent possession offenses where the criminal court makes a finding of recidivism) ♦ Firearm Trafficking ♦ Crime of Violence + at least 1 year prison sentence ** ♦ Theft or Burglary + at least 1 year prison sentence ** ♦ Fraud or tax evasion + loss to victim(s) >10, 000 ♦ Prostitution business offenses ♦ Commercial bribery, counterfeiting, or forgery + at least 1 year prison sentence ** ♦ Obstruction of justice or perjury + at least 1 year prison sentence ** ♦ Various federal offenses and possibly state analogues (money laundering, various federal firearms offenses, alien smuggling, failure to register as sex offender, etc.) ♦ Other offenses listed at 8 USC 1101(a)(43) ♦ Attempt or conspiracy to commit any of the above	Conviction of an Aggravated Felony
CRIMINAL BARS ON 212(h) WAIVER OF CRIMINAL INADMISSIBILITY based on extreme hardship to USC or LPR spouse, parent, son or daughter ➤ Conviction or admitted commission of a Controlled Substance Offense other than a single offense of simple possession of 30 g or less of marijuana ➤ Conviction or admitted commission of a violent or dangerous crime will presumptively bar 212(h) relief ➤ In the case of an LPR, conviction of an Aggravated Felony [see Criminal Deportation Gds], or any Criminal Inadmissibility if removal proceedings initiated before 7 yrs of lawful residence in U.S.	Conviction of a Crime of Domestic Violence, Crime Against Children, Stalking, or Violation of Protection Order (criminal or civil)	Conviction of an Aggravated Felony
CRIMINAL BARS ON ASYLUM based on well-founded fear of persecution in country of removal OR WITHHOLDING OF REMOVAL based on threat to life or freedom in country of removal	Conviction of a Particularly Serious Crime (PSC) , including the following: ➤ Aggravated Felony [see Criminal Deportation Gds] ♦ All aggravated felonies will bar asylum ♦ Aggravated felonies with aggregate 5 years sentence of imprisonment will bar withholding ♦ Aggravated felonies involving unlawful trafficking in controlled substances will presumptively bar withholding of removal ➤ Violent or dangerous crime will presumptively bar asylum ➤ Other PSCs – no statutory definition; see case law	Conviction of an Aggravated Felony
CRIMINAL BARS ON 209(c) WAIVER OF CRIMINAL INADMISSIBILITY based on humanitarian purposes, family unity, or public interest (only for persons who have asylum or refugee status) ➤ DHS reason to believe that the individual is a drug trafficker ➤ Conviction or commission of a violent or dangerous crime will presumptively bar 209(c) relief	CRIMINAL BARS ON LPR CANCELLATION OF REMOVAL based on LPR status of 5 yrs or more and continuous residence in U.S. for 7 yrs after admission (only for persons who have LPR status) ➤ Conviction of an Aggravated Felony ➤ Offense triggering removability referred to in Criminal Inadmissibility Grounds if committed before 7 yrs of continuous residence in U.S.	Conviction of an Aggravated Felony

*For more comprehensive legal resources, visit IDP at www.immigrantdefenseproject.org or call 212-725-6422 for individual case support.

** The “at least 1 year” prison sentence requirement includes a suspended prison sentence of 1 year or more.