

**NYSDA Immigrant Defense Project**  
**Immigration Consequences of Convictions Summary Checklist\***

<b>GROUND OF DEPORTABILITY</b> (apply to lawfully admitted noncitizens, such as a lawful permanent resident (LPR)—greencard holder)	<b>GROUND OF INADMISSIBILITY</b> (apply to noncitizens seeking lawful admission, including LPRs who travel out of US)	<b>INELIGIBILITY FOR US CITIZENSHIP</b>
<p><b>Aggravated Felony Conviction</b></p> <p>➤ <i>Consequences</i> (in addition to deportability):</p> <ul style="list-style-type: none"> <li>◆ Ineligibility for most waivers of removal</li> <li>◆ Ineligibility for voluntary departure</li> <li>◆ Permanent inadmissibility after removal</li> <li>◆ Subjects client to up to 20 years of prison if s/he illegally reenters the US after removal</li> </ul> <p>➤ <i>Crimes covered</i> (possibly even if not a felony):</p> <ul style="list-style-type: none"> <li>◆ Murder</li> <li>◆ Rape</li> <li>◆ Sexual Abuse of a Minor</li> <li>◆ Drug Trafficking (may include, whether felony or misdemeanor, any sale or intent to sell offense, second or subsequent possession offense, or possession of more than 5 grams of crack or any amount of flunitrazepam)</li> <li>◆ Firearm Trafficking</li> <li>◆ Crime of Violence + 1 year sentence**</li> <li>◆ Theft or Burglary + 1 year sentence**</li> <li>◆ Fraud or tax evasion + loss to victim(s) &gt; \$10,000</li> <li>◆ Prostitution business offenses</li> <li>◆ Commercial bribery, counterfeiting, or forgery + 1 year sentence**</li> <li>◆ Obstruction of justice or perjury + 1 year sentence**</li> <li>◆ Certain bail-jumping offenses</li> <li>◆ Various federal offenses and possibly state analogues (money laundering, various federal firearms offenses, alien smuggling, failure to register as sex offender, etc.)</li> <li>◆ Attempt or conspiracy to commit any of the above</li> </ul>	<p>Conviction or <i>admitted commission</i> of a <b>Controlled Substance Offense</b>, or DHS has reason to believe individual is a drug trafficker</p> <p>➤ No 212(h) waiver possibility (except for a single offense of simple possession of 30g or less of marijuana)</p> <hr/> <p>Conviction or <i>admitted commission</i> of a <b>Crime Involving Moral Turpitude (CIMT)</b></p> <p>➤ Crimes in this category cover a broad range of crimes, including:</p> <ul style="list-style-type: none"> <li>◆ Crimes with an <i>intent to steal or defraud</i> as an element (e.g., theft, forgery)</li> <li>◆ 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)</li> <li>◆ Most sex offenses</li> </ul> <p>➤ <i>Petty Offense Exception</i>—for one CIMT if the client has no other CIMT + the offense is not punishable &gt; 1 year (e.g., in New York can't be a felony) + does not involve a prison sentence &gt; 6 months</p>	<p>Conviction or admission of the following crimes bars a finding of good moral character for up to 5 years:</p> <p>➤ <b>Controlled Substance Offense</b> (unless single offense of simple possession of 30g or less of marijuana)</p> <p>➤ <b>Crime Involving Moral Turpitude</b> (unless single CIMT and the offense is not punishable &gt; 1 year (e.g., in New York, not a felony) + does not involve a prison sentence &gt; 6 months)</p> <p>➤ <b>2 or more offenses</b> of any type + <b>aggregate prison sentence of 5 years</b></p> <p>➤ <b>2 gambling offenses</b></p> <p>➤ <b>Confinement</b> to a jail for an aggregate period of 180 days</p>
<p><b>Controlled Substance Conviction</b></p> <p>➤ EXCEPT a single offense of simple possession of 30g or less of marijuana</p>	<p><b>Prostitution and Commercialized Vice</b></p> <p>Conviction of <b>2 or more offenses</b> of any type + <b>aggregate prison sentence of 5 years</b></p>	<p><b>Aggravated felony</b> conviction on or after Nov. 29, 1990 (and murder conviction at any time) <i>permanently</i> bars a finding of moral character and thus citizenship eligibility</p>
<p><b>Crime Involving Moral Turpitude (CIMT) Conviction</b></p> <p>➤ For crimes included, see Grounds of Inadmissibility</p> <p>➤ One CIMT committed within 5 years of admission into the US and for which a sentence of 1 year or longer may be imposed (e.g., in New York, may be a Class A misdemeanor)</p> <p>➤ Two CIMTs committed at any time “not arising out of a single scheme”</p>	<p><b>CONVICTION DEFINED</b></p>	
<p><b>Firearm or Destructive Device Conviction</b></p>	<p>A formal judgment of guilt of the noncitizen entered by a court or, if adjudication of guilt has been withheld, where:</p> <p>(i) a judge or jury has found the noncitizen guilty or the noncitizen has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, AND</p> <p>(ii) the judge has ordered some form of punishment, penalty, or restraint on the noncitizen's liberty to be imposed.</p> <p><b>THUS:</b></p> <p>➤ A court-ordered drug treatment or domestic violence counseling alternative to incarceration disposition IS a conviction for immigration purposes if a guilty plea is taken (even if the guilty plea is or might later be vacated)</p> <p>➤ A deferred adjudication disposition without a guilty plea (e.g., NY ACD) is NOT a conviction</p> <p>➤ A youthful offender adjudication (e.g., NY YO) is NOT a conviction</p>	
<p><b>Domestic Violence Conviction</b> or other domestic offenses, including:</p> <p>➤ Crime of Domestic Violence</p> <p>➤ Stalking</p> <p>➤ Child abuse, neglect or abandonment</p> <p>➤ Violation of order of protection (criminal or civil)</p>		
<b>INELIGIBILITY FOR LPR CANCELLATION OF REMOVAL</b>		
<p>➤ Aggravated felony conviction</p> <p>➤ Offense covered under Ground of Inadmissibility when committed within the first 7 years of residence after admission in the United States</p>		
<b>INELIGIBILITY FOR ASYLUM OR WITHHOLDING OF REMOVAL BASED ON THREAT TO LIFE OR FREEDOM IN COUNTRY OF REMOVAL</b>		
<p><b>“Particularly serious crimes”</b> make noncitizens ineligible for asylum and withholding. They include:</p> <p>➤ Aggravated felonies</p> <ul style="list-style-type: none"> <li>◆ All will bar asylum</li> <li>◆ Aggravated felonies with aggregate 5 year sentence of imprisonment will bar withholding</li> <li>◆ Aggravated felonies involving unlawful trafficking in controlled substances will presumptively bar withholding</li> </ul> <p>➤ Other serious crimes—no statutory definition (for sample case law determination, see Appendix F)</p>		

\*For the most up-to-date version of this checklist, please visit us at <http://www.immigrantdefenseproject.org>.

\*\*The 1-year requirement refers to an actual or suspended prison sentence of 1 year or more. [A New York straight probation or conditional discharge without a suspended sentence is not considered a part of the prison sentence for immigration purposes.]