

Statutory Authority

1. INA Section 101, 8 U.S.C. 1101(a) [**Defines "Alien"**]

(3) The term "alien" means any person not a citizen or national of the United States.

- Does not matter that alien has been here for many years in permanent resident status or that he or she is a very nice person.
- Alien adopted by U.S. citizens does not automatically become a U.S. C.

2. Immigration and Nationality Act of 1952 hereinafter "INA" Section 101(a)(48), 8 U.S.C. (101(a)(48)) [**Defines conviction**]

(A) The term "conviction" means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where--

- (i)-- a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere 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 alien's liberty to be imposed.

(B)-- Any reference to a term of imprisonment of a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.

- Georgia nolo pleas and first offender treatments are convictions under Immigration law.
- The very standard final disposition form used in Georgia misdemeanor sentences stating that "the defendant is sentenced to confinement for a period of 12 months PROVIDED HOWEVER that the sentence may be served on probation" or variations on that theme may well be aggravated felonies under immigration law.

3. INA Section 237(a)(2) 8 U.S.C. 1227(A)(2) General crimes [**LAUNDRY list of crimes subjecting an alien to removal**]

(i) Crimes of moral turpitude

Any alien who--

(1) is convicted of a crime involving moral turpitude committed within five years (or 10 years in the case of an alien provided lawful permanent resident status under section 245(j) of this title) after the date of admission, and

(II) is convicted of a crime for which a sentence of one year or longer may be imposed, is deportable.

(ii)-- Multiple criminal convictions

Any alien who at any time after admission is convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial, is deportable.

Note: A crime of moral turpitude "refers generally to conduct which is inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general. Moral turpitude has been defined as an act which is per se morally reprehensible and intrinsically wrong, or malum in se so it is the nature of the act itself and not the statutory prohibition of it which renders a crime one of moral turpitude." Matter of Franklin, 20 I&N Dec. 867, 868(BIA) 1994), aff'd 72F.3d 571 (8th Cir 1995).

(iii)-- Aggravated felony [**Very little relief available for persons convicted of these crimes**]

Any alien who is convicted of an aggravated felony at any time after admission is deportable.

(iv)-- High speed flight

Any alien who is convicted of a violation of section 758 of title 18, United States Code (relating to high speed flight from an immigration checkpoint), is deportable.

(v)-- Waiver authorized

Clauses (i), (ii), (iii), and (iv) shall not apply in the case of an alien with respect to a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States.

(B)-- Controlled substances

(i)-- Conviction

Any alien who at any time after admission has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), other than a single offense involving possession for one's own use of thirty grams or less of marijuana, is deportable.

(ii)-- Drug abusers and addicts

Any alien who is, or at any time after admission has been, a drug abuser or addict is deportable.

(C) Certain firearm offenses

Any alien who at any time after admission is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is deportable.

- Aliens are limited regarding the types of firearms they are allowed to purchase or carry –Check your federal firearm statutes.
- Even discharging a firearm in violation of law is a removable offense such as shooting at beer cans in the country.

(D)-- Miscellaneous crimes

Any alien who at any time has been convicted (the judgment on such conviction becoming final) of, or has been so convicted of a conspiracy or attempt to violate--

(i)-- any offense under chapter 37 (relating to espionage), chapter 105 (relating to sabotage), or chapter 115 (relating to treason and sedition) of title 18, United States Code, for which a term of imprisonment of five or more years may be imposed;

(ii)-- any offense under section 871 or 960 of title 18, United States Code;

(iii)-- a violation of any provision of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) or the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.); or

(iv)-- a violation of section 215 or 278 of this Act, is deportable.

(E)-- Crimes of domestic violence, stalking, or violation of protection order, crimes against children and [sic]

(i)-- Domestic violence, stalking, and child abuse

Any alien who at any time after entry is convicted of a crime of domestic violence, a crime of stalking, or a crime of ~~child abuse~~, child neglect, or child abandonment is deportable. For purposes of this clause, the term "crime of domestic violence" means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

- Check your state domestic violence regarding person protected from individual's acts under the domestic or family violence law

(ii)-- Violators of protection orders

Any alien who at any time after entry is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable. For purposes of this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

(D)-- Falsely claiming citizenship

Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any Federal or State law is deportable.

- Applies to representations made subsequent to September 30, 1996

4. INS Section 101(a)(43), 8 U.S.C. 1101(a)(43) [Defines "aggravated felony"]

The term "aggravated felony" means--

(A)-- murder, rape, or sexual abuse of a minor;

(B)-- illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

(C)-- illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

(D)-- an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded \$10,000;


(E)-- an offense described in--

(i)-- section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

(ii)-- sections 922 (g) (1), (2), (3), (4) or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

(iii)-- section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment at least one year;

 (G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment at least one year;

(H)-- an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

(I)-- an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

(J)-- an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations), or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses) for which a sentence of one year imprisonment or more may be imposed;

(K)-- an offense that--

(i)-- relates to the owning, controlling, managing, or supervising of a prostitution business;

(ii)-- is described in section 2421, 2422, or 2433 of title 18, United States Code (relating to transportation for the purpose of prostitution) if committed for commercial advantage; or

(iii)-- is described in section 1581, 1582, 1583, 1584, 1585, or 1588 of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

(L) an offense described in--

(i)-- section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code;

(ii)-- section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents); or

(iii)-- section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents);

(M)-- an offense that--

(i)-- involves fraud or deceit in which the loss to the victim or victims exceeds \$10,000; or

(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds \$10,000;

(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling), except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act;

(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;

(P) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment is at least 12 months, except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act;

(Q) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 5 years or more;

(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which the term of imprisonment is at least one year;

(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which the term of imprisonment is at least one year;

(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

(U) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph.

5. INA Section 212(a)(2), 8 U.S.C. 1182 Criminal and Related Grounds [Grounds of inadmissibility]

(i) In General

Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of--

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or

(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), is inadmissible.

(ii)-- Exception

Clause (i)(I) shall not apply to an alien who committed only one crime . if--

(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States, or

(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

(B)-- Multiple Criminal Convictions

Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible.

(C)-- Controlled Substance Traffickers

Any alien who the consular or immigration officer knows or has reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance, is inadmissible.

(D)-- Prostitution and Commercialized Vice

Any alien who--

(i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, admission, or adjustment of status,

(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, admission, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution, or

(iii) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution, is inadmissible.

(E)-- Certain Aliens Involved in Serious Criminal Activity Who Have Asserted Immunity from Prosecution