

CRIMINAL CHARGES CAN LEAD TO DEPORTATION... EVEN FOR PERMANENT RESIDENTS OF THE U.S.

Under recent immigration rules, many types of criminal convictions lead to deportation of aliens regardless of the severity of their crime. Even persons who have held permanent residence in the U.S. for 20 years or more are now being deported to their native country for crimes committed here. Worse, the crime can be something committed years ago, but if the government becomes aware of the criminal conviction now, the individual can still be deported.

This is a particular problem for children of immigrants, who are often unaware of the implications of their conduct, and engage in illegal conduct typical of certain young Americans such as drug use, theft or alcohol-related crimes.

The rule is that any criminal violation that can result in up to 1 year in jail and for which the sentence is more than 6 months actual imprisonment is considered a removable offense. Any crime with a punishment of under 6 months' imprisonment is deemed a petty violation.

Even if the conviction does not result in a sentence of one year, there are certain crimes for which a conviction alone can lead to removal of the defendant from the country. These are called crimes of moral turpitude. Moral turpitude refers to conduct which is inherently base, vile or depraved, contrary to the accepted roles of morality and the duties owed between men and men, either one's fellowman or society in general. Neither the seriousness of the offense or the severity imposed determines whether or not a crime involves moral turpitude.

For example, leaving the scene of a personal injury accident is a misdemeanor that is also a crime of moral turpitude and conviction may qualify the alien for removal. Similarly, any alien convicted of shoplifting, a misdemeanor, may undergo removal proceedings. Shoplifting is a misdemeanor involving theft, which is considered a crime of moral turpitude, and convictions of such crimes mean automatic removal. Certainly, removal from the country is an excessive punishment for certain lesser crimes.

A DUI conviction may or may not lead to removal, depending upon how the DUI is charged under the state statutes. However, a defendant who receives a second conviction of DUI may be removable because the second conviction is a crime involving "moral turpitude," as a person who commits a second offense should have known better and therefore has committed an act that is contrary to the accepted rules of morality. A second conviction shows that the individual repeated the crime despite former effect.

Any crime involving domestic violence can be cause to be removed because it may be considered an aggravated felony or a crime of moral turpitude.

In short, immigrants who are not yet citizens should be very careful to avoid any problem with the law which could result in a criminal charge. Parents need to warn their children of the very serious risks to them from committing criminal acts here. Many times, the penalty imposed by the criminal court may be minor, but the conviction itself leads to deportation and separation from family members, a far harsher penalty

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