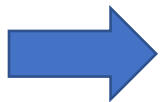




## If I Want to Reenter the U.S. or Become a Citizen, What Bars Will Result from My Criminal History?

Even after you have been deported or won your case, you still might have various bars associated with your criminal history. Your criminal history may have an impact on your ability to legally return to the United States or naturalize and become a U.S. citizen.



### What if I Leave the United States and Want to Return?

\*If you are **deported** from the United States, *regardless of your criminal history*, you will face a **5- or 10-year bar** during which time you will be unable to legally return to the U.S. If you have previously been deported, you may face a **20-year** or even a **permanent bar** to reentry.

\*If you leave **voluntarily**, *regardless of your criminal history*, you still may face a **3- or 10-year bar** to reentry if you spent more than 6 months living in the United States without authorization.

\*If you have a valid green card or visa or if you are otherwise eligible to receive one, certain **criminal activity** could prevent you from entering or returning to the United States.

The following criminal activity could make you **inadmissible** from the United States and could prevent you from entering or returning to the U.S., *even if you have a valid green card or visa*:

- ❖ Conviction or admission of having committed a “**crime involving moral turpitude**” (except if the crime was committed when you were under 18 and at least five years before application for admission or if the crime was punishable by not more than one year and you were not sentenced to more than 6 months)

**What is a “crime involving moral turpitude”?** There is no one definition. Generally, it means that the crime you were convicted of requires that you did it on purpose (acted with intent) and also that what you were convicted of doing is considered to be morally wrong in the eyes of the law. To find out if the crime that you were convicted of is a crime involving moral turpitude, you need to know the exact crime that you were convicted of and in which state. A lawyer will need to read the law to see exactly what the crime you were convicted of says that you did. If that crime in that state is the same as what the immigration laws say is a crime involving moral turpitude, the judge may be able to find that your crime is one.

- ❖ Conviction or admission of having committed a **controlled substance offense**



**What is a “controlled substance offense”?** In general, this means a crime relating to drugs. But, not all crimes related to drugs are “controlled substance offenses” in the eyes of the immigration laws. To determine whether your drug-related crime is a “controlled substance offense,” you need to know the exact crime you were convicted of and in which state. Then, a lawyer needs to read the law to determine exactly what you were convicted of doing. If what you were convicted of doing matches the immigration law’s definition of a “controlled substance offense,” then the judge may be able to find that your crime is one.

- ❖ Reason to believe you are a **drug trafficker**
- ❖ Two or more convictions for any offense with a **total sentence of 5 years** or more
- ❖ Engaged or intend to engage in **prostitution or commercialized vice**
- ❖ Reason to believe you have engaged or will engage in **human trafficking**
- ❖ Reason to believe you have engaged or will engage in **money laundering**

\*If you have an **aggravated felony** or **murder** conviction, you will likely be **permanently inadmissible** from the United States.

**What is an “aggravated felony”?** In general, it is a crime that fits in to the category of the most serious crimes under the immigration laws. To determine whether your crime is an “aggravated felony,” you need to know the exact crime you were convicted of and in which state. Then, a lawyer needs to read the law to determine exactly what you were convicted of doing. If what you were convicted of doing matches the immigration law’s definition of an “aggravated felony,” then the judge may be able to find that your crime is one. Examples of aggravated felonies include: murder, rape, sexual abuse of a minor, drug trafficking, unlawful trafficking in firearms or explosives, a crime of violence with a sentence of at least one year, a theft offense with a sentence of at least one year, obstruction of justice with a sentence of at least one year, money laundering involving \$10,000 or more, a fraud conviction with loss to the victim of \$10,000 or more, and an attempt or conspiracy to commit an aggravated felony.

\*You may be able to apply for a **212(h) waiver of inadmissibility** if you can show that your removal would result in extreme hardship to a U.S. citizen or LPR spouse, parent, son, or daughter and you are inadmissible for one of the following criminal reasons:

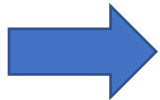
- ❖ Conviction or admission of having committed a “**crime involving moral turpitude**” (except if the crime was committed when you were under 18 and at least five years before application for admission or if the crime was punishable by not more than one year and you were not sentenced to more than 6 months)
- ❖ Conviction or admission of having committed a **controlled substance offense**
- ❖ Reason to believe you are a **drug trafficker**



- ❖ Two or more convictions for any offense with a **total sentence of 5 years** or more
- ❖ Engaged or intend to engage in **prostitution or commercialized vice**

If you are inadmissible because of a controlled substance offense, you are only eligible for this waiver if the offense involved 30 grams or less of marijuana. If you are inadmissible because of having engaged in prostitution, you may be eligible without a showing of extreme hardship if the conduct occurred more than 15 years earlier and you have been “rehabilitated.” If you are otherwise eligible, this waiver could allow you to apply for a green card and come to the United States **as a permanent resident**.

\*You may be able to apply for a **212(d)(3)(A) waiver of inadmissibility** if any of the criminal grounds apply to you. These waivers are granted on a case by case basis and are entirely discretionary. If you are otherwise eligible, this waiver could allow you to apply for a visa to come **temporarily** to the United States.



## What if I Want to Become a U.S. Citizen?

If you are currently a permanent resident who has been residing in the United States for a certain amount of time, you may be eligible to become a U.S. citizen. In addition to showing that you are a lawful permanent resident and meet all other eligibility requirements, you also must prove that you have been a person of “**good moral character**” for the previous five years.

You will be unable to meet the standard for “good moral character” if you have:

- ❖ Been convicted of **murder** at any time
- ❖ Been convicted of an **aggravated felony** on or after November 29, 1990
- ❖ Engaged in **persecution, genocide, torture, or severe violations of religious freedom** at any time

You will also be unable to meet the standard for “good moral character” if, **during the last five years**, you have been convicted of or admitted to:

- ❖ A “**crime involving moral turpitude**” (except if the crime was committed when you were under 18 and at least five years before application for admission or if the crime was punishable by not more than one year and you were not sentenced to more than 6 months)



- ❖ A **controlled substance offense** (except one conviction of possession of less than 30 grams of marijuana)
- ❖ Reason to believe you are a **drug trafficker**
- ❖ Two or more convictions for any offense with **total sentence of 5 years** or more
- ❖ Engaging or intending to engage in **prostitution or commercialized vice**
- ❖ “**Alien smuggling**”
- ❖ Coming to the United States to practice **polygamy**
- ❖ Being a **habitual drunkard**
- ❖ Making a living from or having two or more convictions for **illegal gambling**
- ❖ Giving **false testimony** to receive immigration benefits
- ❖ Being **confined to jail or prison for 180 days** or more as a result of a conviction
- ❖ Refusing or **failing to support dependants** (without extenuating circumstances)
- ❖ Having an **extramarital affair** (without extenuating circumstances)
- ❖ Committing **other criminal acts** that reflect poorly on your character (without extenuating circumstances)

\*If you are or have been on **probation** during the previous five years, you are not ineligible for naturalization, but the government can consider you probation in evaluating your application and can find that you do not meet the standard for good moral character because of it. Therefore, you may consider waiting to file a naturalization application until you have not been on probation for at least the previous five years.