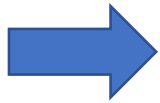




## How will my Criminal History Impact my Chances for Bond?

If you are currently detained and facing removal proceedings, past criminal activity may affect your ability to get bond. Certain convictions and other criminal history might make you ineligible for receiving a bond. Even criminal history that might not disqualify you will still be considered by the judge when deciding whether to grant you a bond.



“Mandatory Detention” – When You Are **Not Eligible** to Receive a Bond

*\*\*If you DO NOT currently have legal status, such as a green card or an unexpired visa, or if you have legal status and were recently detained while attempting to reenter the United States, then ICE may be **required to detain you** for the following 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 possible punishment for the crime was not more than one year and you were not sentenced to more than 6 months);
  - Examples of offenses that *may* be crimes involving moral turpitude include theft, forgery, sex offenses, and offenses resulting in bodily harm of another person.

**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** or the Department of Homeland Security (“DHS”) has reason to believe you are a drug trafficker;

**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.

- ❖ **Two or more convictions with a total sentence of 5 years or more;**
- ❖ Engaged or intend to engage in **prostitution;**
- ❖ DHS has reason to believe you have engaged or will engage in **human trafficking;**
- ❖ DHS has reason to believe you have engaged or will engage in **money laundering;** or
- ❖ DHS has reason to believe you have engaged or will engage in **terrorist activities.**

*\*\*If you DO currently have legal status, such as a green card or an unexpired visa, then ICE may be **required to detain you** for the following reasons:*

- ❖ **One conviction** of a “**crime involving moral turpitude**” with a prison sentence of one year or more within the first five years of being admitted to the U.S.;
- ❖ Convicted of **two or more “crimes involving moral turpitude”** that did not arise out of a single act of criminal misconduct;
- ❖ Conviction of an **aggravated felony;**
  - Examples of aggravated felonies include murder, rape, sexual abuse of a minor, drug trafficking, firearm trafficking, a crime of violence with a



prison sentence of 1 year or more, and some theft/burglary convictions with a prison sentence of 1 year or more.

**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.

- ❖ Conviction of a **controlled substance offense** (except if a single conviction for possession of 30 grams or less of marijuana);
- ❖ Conviction of certain **firearm offenses**; or
- ❖ DHS has reason to believe you have engaged or will engage in **terrorist activities**.



### Discretionary Detention – When You **May** Be Released on Bond

Even if ICE is not required to detain you for one of the reasons listed above, they may continue to detain you if the immigration judge decides to deny bond in your case. When determining whether to grant bond, the immigration judge will consider whether they believe you are a **flight risk** or a “**danger to the community**.”

In determining whether they believe you are a “danger to the community,” **the immigration judge will look at any criminal convictions on your record**. The judge may consider the underlying facts behind the conviction and the nature of the offense, and this may have an impact on their ultimate decision whether to release you or not. If you have past criminal history, an immigration judge may be more likely to grant a bond in your case if you present evidence that you successfully completed your sentence, probation, and classes or other requirements of your conviction and that you have learned from your experiences.



If you have a criminal case that is still open (you have not yet been convicted or acquitted), you should think about how discussing the case in immigration court could affect your criminal case. If you admit to things in immigration court, your statements can be used against you in criminal court. For this reason, it is very important that, if you have an attorney in your criminal case, that you speak to him or her before you testify in your immigration bond hearing. If you do not want to discuss your open criminal case in your immigration bond hearing, you can tell the judge that your case is open and so you do not want to discuss it. However, some judges will deny you a bond because you refuse to speak about your open criminal case.