




ORR State Letter

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Date: March 24, 2005

TO: STATE REFUGEE COORDINATORS
NATIONAL VOLUNTARY AGENCIES
OTHER INTERESTED PARTIES

FROM: Nguyen Van Hanh, Ph.D. 
Director
Office of Refugee Resettlement

SUBJECT: Immigration Consequences of a Criminal Conviction

Purpose of this Letter

This State Letter is intended to provide general guidance regarding the immigration consequences resulting from a criminal conviction. If you encounter a non-citizen who has concerns that past or pending involvement in the criminal justice system may affect his or her immigration status, please advise the individual to obtain competent legal advice from an authorized immigration attorney or practitioner. (1) Additionally, service providers should be cautioned against providing “legal” advice or guidance to clients, as this may constitute the unauthorized practice of law.

A criminal conviction may prevent an individual from being permitted to enter the United States (2) or may be the basis for an order of removal (deportation). (3) Negative immigration consequences may be predicated on an event or a criminal conviction that occurred many years in the past. Non-citizens with a criminal history may encounter difficulties when making an application for asylum, adjustment of status, naturalization, or while being inspected at a port of entry and may result in the loss of one’s lawful immigration status.

This area of immigration/criminal law is complex and continuously evolving. As an example, it is often difficult to know whether or not a crime will be deemed a “crime involving moral turpitude” that may subject a non-citizen to removal. (4) The Immigration and Nationality Act (INA) does not define a “crime involving moral turpitude” and courts have interpreted the term differently. Likewise, determining whether a conviction will be deemed an “aggravated felony” is often complicated by the fact that a crime classified as a “misdemeanor” under state and federal criminal codes may be considered an “aggravated felony” under the provisions of the INA. (5)

This State Letter is not intended to be used as a basis for providing legal advice or determining whether or not specific conduct may or may not prevent an individual from being permitted to enter this country or subject a non-citizen to removal. Rather, it is provided to alert interested parties of the serious ramifications of a criminal conviction due to the complexities in the immigration law, and further to suggest that if one encounters an individual with a criminal history, the person should be encouraged to obtain competent legal advice from an authorized immigration attorney or practitioner.

If you have questions regarding any of the information contained in this State Letter, please contact Paul Gleason at (202) 401-4604 or pgleason@acf.hhs.gov.

(1) Sources for such advice include the American Immigration Lawyers' Association (AILA) and the lists of immigrant legal assistance organizations often maintained by local area Department of Justice Immigration Courts.

(2) §212 (a)(2); (8 U.S.C. 1182 (a)(2))

(3) §237 (a)(2); (8 U.S.C. 1227(a)(2))

(4) §237 (a)(2)(A)(i); (8 U.S.C. 1227(a)(2)(A)(i))

(5) §237 (a)(2)(A)(iii); (8 U.S.C. 1227(a)(2)(A)(iii))