

What Effect will a DUI have on my Immigration Status?

The two main ramifications of a DUI on anyone who is an alien is deportation or denial of admissibility. An alien is anyone who is not a citizen of the United States and owes political allegiance to some other country. We recommend you consult with an immigration attorney because certain DUI convictions can affect your legal status. Although most DUIs are classified as misdemeanors, the penalties are quite severe. Furthermore, penalties for second or third time offenders are much worse, and if there is an injury involved your DUI could even be classified as a felony.

In some instances a DUI can lead to deportation. The United States Citizenship and Naturalization Services (USCIS) may determine that your DUI is a crime involving moral turpitude and or a crime of violence under current immigration laws. A crime involving moral turpitude is grounds for deportation or inadmissibility, denial of adjustment of status, or a finding of bad moral character at a naturalization interview. However, an ordinary DUI conviction by itself is generally not considered a crime involving moral turpitude. With that said, if there are any aggravating factors, such as receiving your DUI while driving on a suspended license, your DUI may be determined to be a crime involving moral turpitude.

You should also be aware that conviction under immigration law is much broader than under regular criminal law. Conviction is defined in immigration law as a formal judgment of guilt, or if adjudication of guilt has been withheld, where:

1. A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere (no contest) or has admitted sufficient facts to warrant a finding of guilt, and
2. The judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

Therefore, a diversion program where no conviction is entered can still be considered a conviction under immigration law. Each state has different laws with regards to DUIs. Arizona has some of the strictest DUI penalties in the country and that is why it is especially important that you consult with both a criminal and immigration attorney before being convicted of an offense that can permanently affect your immigration status. And please don't attempt to lie about your conviction. Lying about a DUI conviction on a visa application can result in a finding of fraud and misrepresentation which is sufficient cause for inadmissibility into the U.S. Besides, they have your fingerprints and your photograph when you were arrested so it's not likely you're going to get away with it.

Additional Resources

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