

APPENDIX A

Quick Reference Chart for Determining Key Immigration Consequences of Common New York Offenses

For information on the applicability of these consequences to a specific noncitizen, *see Chapter 3*.

For detailed information on the following:

- Aggravated Felony (AF) deportability, *see Appendix G, section 1* (and for “aggravated felony” practice aids, *see Appendix C*)
- Controlled Substance Offense (CSO) deportability, *see Appendix G, section 3*, & inadmissibility, *see Appendix H, section 1*
- Crime Against Children (CAC) deportability, *see Appendix G, section 5*
- Crime Involving Moral Turpitude (CIMT) deportability, *see Appendix G, section 2*, & inadmissibility, *see Appendix H, section 2* (and for sample “moral turpitude” determinations, *see Appendix D*)
- Crime Of Domestic Violence (CODV) and Stalking and Violation of Protection Order deportability, *see Appendix G, section 5*
- Firearm Offense (FO) deportability, *see Appendix G, section 4*
- Prostitution inadmissibility, *see Appendix H, section 4*

For strategies to avoid these grounds of deportability and inadmissibility, *see Chapter 5*.

NEW YORK PENAL LAW OFFENSES

[For New York Vehicle and Traffic Law offenses, see the chart beginning on page A-45.]

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
CRIMINAL SOLICITATION				
Criminal solicitation	100.00-100.13	Might be deemed an AF if the underlying offense is an AF.	Would probably be considered a CIMT if the underlying offense is a CIMT.	Conviction might be considered a CSO, etc., if the underlying offense is a CSO, etc., but there is some case law supporting a contrary argument (See Appendix E).
CONSPIRACY				
Conspiracy	105.00-105.17	A conspiracy to commit an AF would also be deemed an AF.	A conspiracy to commit a CIMT would probably be considered a CIMT.	Conviction would be considered a CSO or FO if the underlying offense is a CSO or FO.

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
ATTEMPT				
Attempt	110.00	An attempt to commit an AF would also be deemed an AF.	An attempt to commit a CIMT would probably be considered a CIMT.	Conviction would be considered a CSO or FO if the underlying offense is a CSO or FO.
CRIMINAL FACILITATION				
Criminal facilitation	115.00-115.08	Might be deemed an AF if the underlying offense is an AF.	Would probably be considered a CIMT if the underlying offense is a CIMT.	Conviction might be considered a CSO, etc., if the underlying offense is a CSO, etc., but there is some case law supporting a contrary argument (See Appendix E).
ASSAULT AND RELATED OFFENSES				
Assault, 3rd degree Class A misdemeanor	120.00	No, unless maximum term of imprisonment of one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, in which case conviction under subsection (1) might be deemed a “crime of violence” AF	Conviction under subsections (1) or (3) might be considered a CIMT; conviction under subsection (2) would NOT be considered a CIMT.	Conviction under subsection (3) might be considered a FO if record of conviction establishes that offense involved a firearm. If the victim was a current or former spouse or similarly situated individual and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, a conviction under subsection (1) might also be considered a CODV.
Assault, 2nd degree Class D felony	120.05	If term of imprisonment of at least one year is imposed, conviction under subsection (2) would probably be deemed a “crime of violence” AF and conviction under any other subsection might be deemed a “crime of violence” AF.	Would probably be considered a CIMT, particularly under subsections (1), (2), (4), (5), (7), (8), and (9).	Conviction under subsections (2) or (4) might be considered a FO if record of conviction establishes that offense involved a firearm. If the victim was a current or former spouse or similarly situated individual, a conviction might also be considered a CODV.

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

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ASSAULT AND RELATED OFFENSES <i>(continued)</i>				
Assault on a peace officer, police officer, fireman or emergency medical services professional Class C felony	120.08	If term of imprisonment of at least one year is imposed, might be deemed a “crime of violence” AF.	Might be considered a CIMT.	
Assault, 1st degree Class B felony	120.10	If term of imprisonment of at least one year is imposed, conviction under subsection (1) would probably be deemed a “crime of violence” AF and conviction under subsections (2), (3) and (4) might be deemed a “crime of violence” AF.	Would probably be considered a CIMT, particularly under subsections (1), (2), and (3).	Conviction under subsection (1) might be considered a FO if record of conviction establishes that offense involved a firearm. If the victim was a current or former spouse or similarly situated individual, a conviction might also be considered a CODV.
Aggravated assault upon a police officer or peace officer Class B felony	120.11	If term of imprisonment of at least one year is imposed, would probably be deemed a “crime of violence” AF.	Would probably be considered a CIMT.	Conviction might be considered a FO if record of conviction establishes that offense involved a firearm.

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ASSAULT AND RELATED OFFENSES <i>(continued)</i>				
Aggravated assault upon a person less than eleven years old Class E felony	120.12	If term of imprisonment of at least one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, might be deemed a “crime of violence” AF if record of conviction shows the crime committed is assault as defined under subsection (1) of NY Penal Law 120.00.	Might be considered a CIMT depending on subsection of 3rd degree assault under which defendant is charged, <i>see above</i> Assault, 3rd degree.	Conviction would probably be considered a CAC.
Menacing, 1st degree Class E felony	120.13	If term of imprisonment of at least one year is imposed, might be deemed a “crime of violence” AF if record of conviction shows the crime committed is menacing as defined under subsection (1) of NY Penal Law 120.14. If term of imprisonment of at least one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, might be deemed a “crime of violence” AF regardless of what record of conviction establishes.	Would probably be considered a CIMT.	Conviction might be considered a FO if record of conviction establishes that offense involved a firearm. If the victim was a current or former spouse or similarly situated individual, a conviction might also be considered a CODV. A conviction might also trigger deportability under CODV clause regarding “crime of stalking.”

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ASSAULT AND RELATED OFFENSES <i>(continued)</i>				
Menacing, 2nd degree Class A misdemeanor	120.14	No, unless maximum term of imprisonment of one year is imposed in which case conviction under subsection (1) might be deemed a “crime of violence” AF. If maximum term of imprisonment of one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, conviction under subsections (2) and (3) might also be deemed a “crime of violence” AF	Would probably be considered a CIMT.	Conviction under subsection (1) might be considered a FO if record of conviction establishes that offense involved a firearm. If the victim was a current or former spouse or similarly situated individual, a conviction might also be considered a CODV. A conviction might also trigger deportability under CODV clause regarding “crime of stalking,” and a conviction under subsection (3) might trigger deportability under CODV clause regarding “violators of protection orders.”
Menacing, 3rd degree Class B misdemeanor	120.15	No.	Might be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, a conviction might be considered a CODV. A conviction might also trigger deportability under CODV clause regarding “crime of stalking.”
Reckless endangerment, 2nd degree Class A misdemeanor	120.20	No, unless maximum term of imprisonment of one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, in which case might be deemed a “crime of violence” AF.	Might be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, a conviction might be considered a CODV.

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ASSAULT AND RELATED OFFENSES <i>(continued)</i>				
Reckless endangerment, 1st degree Class D felony	120.25	If term of imprisonment of at least one year is imposed, might be deemed a "crime of violence" AF.	Would probably be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV.
Stalking, 4th degree Class B misdemeanor	120.45	No.	Would probably be considered a CIMT.	A conviction would probably trigger deportability as a "crime of stalking," or, if the victim was a current or former spouse or similarly situated individual and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, a conviction might also be considered a CODV.

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ASSAULT AND RELATED OFFENSES <i>(continued)</i>				
Stalking, 3rd degree Class A misdemeanor	120.50	No, unless maximum term of imprisonment of one year is imposed in which case conviction under subsection (3) might be deemed a “crime of violence” AF if the record of conviction shows fear of commission of a sex offense, kidnapping, unlawful imprisonment or death (as opposed to physical injury or serious physical injury). If maximum term of imprisonment of one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, conviction under any subsection might be deemed a “crime of violence” AF, particularly (if convicted under subsections (1), (2) or (4)) if record of conviction shows the crime committed is stalking as defined under subsection (1) of NY Penal Law 120.45.	Would probably be considered a CIMT.	A conviction would probably trigger deportability as a “crime of stalking,” or, if the victim was a current or former spouse or similarly situated individual, a conviction might also be considered a CODV.

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ASSAULT AND RELATED OFFENSES (<i>concluded</i>)				
Stalking, 2nd degree Class E felony	120.55	If term of imprisonment of at least one year is imposed, conviction under subsection (1) would probably be deemed a “crime of violence” AF, particularly if the record of conviction shows threatened use of any of the enumerated weapons (as opposed to mere display) and conviction under any other subsection might be deemed a “crime of violence” AF.	Would probably be considered a CIMT.	A conviction would probably trigger deportability as a “crime of stalking,” or, if the victim was a current or former spouse or similarly situated individual, a conviction might also be considered a CODV. Conviction under subsection (1) might also be considered a FO if record of conviction establishes that offense involved a firearm.
Stalking, 1st degree Class D felony	120.60	If term of imprisonment of at least one year is imposed, would probably be deemed a “crime of violence” AF if record of conviction shows the crime committed is stalking as defined under subsection (1) of NY Penal Law 120.55, and otherwise might be deemed a “crime of violence” AF. Conviction under subsection (2) might also be considered a “rape, or sexual abuse of a minor” AF.	Would probably be considered a CIMT.	A conviction would probably trigger deportability as a “crime of stalking,” or, if the victim was a current or former spouse or similarly situated individual, a CODV.

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HOMICIDE, ABORTION, AND RELATED OFFENSES				
Criminally negligent homicide Class E felony	125.10	Probably not.	Would probably NOT be considered a CIMT.	
Vehicular manslaughter, 2nd degree Class D felony	125.12	If term of imprisonment of at least one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, might be deemed a “crime of violence” AF.	Would probably NOT be considered a CIMT.	
Vehicular manslaughter, 1st degree Class C felony	125.13	If term of imprisonment of at least one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, might be deemed a “crime of violence” AF.	Would probably NOT be considered a CIMT.	
Manslaughter, 2nd degree Class C felony	125.15	If term of imprisonment of at least one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, might be deemed a “crime of violence” AF.	Conviction under subsection (1) would be considered a CIMT; conviction under subsections (2) or (3) might be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, a conviction might be considered a CODV.

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HOMICIDE, ABORTION, AND RELATED OFFENSES <i>(concluded)</i>				
Manslaughter, 1st degree Class B felony	125.20	If term of imprisonment of at least one year is imposed, conviction under subsections (1), (2), and (4) might be deemed a “crime of violence” AF.	Conviction under subsections (1), (2), or (4) would be considered a CIMT; conviction under subsection (3) might be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV.
Murder, 2nd degree Class A-I felony	125.25	Yes.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV.
Murder, 1st degree Class A-I felony	125.27	Yes.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV.
SEX OFFENSES				
Sexual misconduct Class A misdemeanor	130.20	Conviction under subsections (1) or (2) might be deemed a “rape, or sexual abuse of a minor” AF, OR, if maximum term of imprisonment of one year is imposed, might be deemed a “crime of violence” AF.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC.

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SEX OFFENSES <i>(continued)</i>				
Rape, 3rd degree Class E felony	130.25	Conviction under subsection (2) would probably be deemed a “sexual abuse of a minor” AF, particularly if the record of conviction shows that the victim is under the age of 16; OR conviction under subsections (1) or (3) might be deemed a “rape” AF; OR conviction under any subsection might be deemed a “crime of violence” AF if term of imprisonment of at least one year is imposed.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction would probably be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC, particularly if conviction under subsection (2).
Rape, 2nd degree Class D felony	130.30	Conviction under subsection (1) would probably be deemed “sexual abuse of a minor” AF and conviction under subsection (2) might be deemed “rape, or sexual abuse of a minor” AF; OR, conviction under either subsection might be deemed a “crime of violence” AF if term of imprisonment of at least one year is imposed.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction would probably be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC.

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SEX OFFENSES <i>(continued)</i>				
Rape, 1st degree Class B felony	130.35	Yes, "rape, or sexual abuse of a minor" AF.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction would probably be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC, particularly if conviction under subsection (3).
Sodomy, 3rd degree Class E felony	130.40	Conviction under subsection (2) would probably be deemed a "sexual abuse of a minor" AF, particularly if the record of conviction shows that the victim is under the age of 16; OR conviction under subsection (1) or (3) might be deemed a "rape" AF; OR conviction under any subsection might be deemed a "crime of violence" AF if term of imprisonment of at least one year is imposed.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction would probably be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC, particularly if conviction under subsection (2).

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SEX OFFENSES <i>(continued)</i>				
Sodomy, 2nd degree Class D felony	130.45	Conviction under subsection (1) would probably be deemed “sexual abuse of a minor” AF and conviction under subsection (2) might be deemed “rape, or sexual abuse of a minor”; OR, conviction under either subsection might be deemed a “crime of violence” AF if term of imprisonment of at least one year is imposed.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction would probably be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC.
Sodomy, 1st degree Class B felony	130.50	Conviction under subsection (3) or (4) would be deemed a “sexual abuse of a minor” AF and conviction under subsection (1) or (2) would probably be deemed a “rape” AF; OR, conviction under any subsection might be deemed a “crime of violence” AF if term of imprisonment of at least one year is imposed.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction would probably be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC, particularly if conviction under subsection (3).

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SEX OFFENSES <i>(continued)</i>				
Forcible touching Class A misdemeanor	130.52	If the record of conviction shows that the victim was a minor, particularly under age 16, would probably be deemed a “sexual abuse of a minor” AF; OR, if maximum term of imprisonment of one year is imposed, might be deemed a “crime of violence” AF.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC.
Sexual abuse, 3rd degree Class B misdemeanor	130.55	If the record of conviction shows that the victim was a minor, particularly if under age 16, would probably be deemed a “sexual abuse of a minor” AF.	Yes.	If the record of conviction shows that the victim was a child, the conviction would probably be considered a CAC.
Sexual abuse, 2nd degree Class A misdemeanor	130.60	If the record of conviction shows that the victim was a minor, would probably be deemed a “sexual abuse of a minor” AF, OR, if maximum term of imprisonment of one year is imposed, might be deemed a “crime of violence” AF.	Yes.	If the record of conviction shows that the victim was a child, the conviction would probably be considered a CAC, particularly if conviction under subsection (2).

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SEX OFFENSES <i>(continued)</i>				
Sexual abuse, 1st degree Class D felony	130.65	If the record of conviction shows that the victim was a minor, would probably be deemed a “sexual abuse of a minor” AF, OR, if term of imprisonment of at least one year is imposed, might be deemed a “crime of violence” AF.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV. If the record of conviction shows that the victim was a child, the conviction would probably be considered a CAC, particularly if conviction under subsection (3).
Aggravated sexual abuse, 4th degree Class E felony	130.65-a	If the record of conviction shows that the victim was a minor, would be deemed a “sexual abuse of a minor” AF, OR, in other cases, might be deemed “rape” AF, OR if term of imprisonment of at least one year is imposed, might be deemed a “crime of violence” AF.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV. If the record of conviction shows that the victim was a child, the conviction would probably be considered a CAC.
Aggravated sexual abuse, 3rd degree Class D felony	130.66	If the record of conviction shows that the victim was a minor, would be deemed a “sexual abuse of a minor” AF, OR, in other cases, might be deemed “rape” AF, OR if term of imprisonment of at least one year is imposed, might be deemed a “crime of violence” AF.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV. If the record of conviction shows that the victim was a child, the conviction would probably be considered a CAC, particularly if conviction under subsection (1)(c).

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SEX OFFENSES <i>(concluded)</i>				
Aggravated sexual abuse, 2nd degree Class C felony	130.67	If the record of conviction shows that the victim was a minor, would be deemed a "sexual abuse of a minor" AF, OR, in other cases, might be deemed "rape" AF, OR, if term of imprisonment of at least one year is imposed, might be deemed a "crime of violence" AF.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV. If the record of conviction shows that the victim was a child, the conviction would probably be considered a CAC, particularly if conviction under subsection (1)(c).
Aggravated sexual abuse, 1st degree Class B felony	130.70	If the record of conviction shows that the victim was a minor, would be deemed a "sexual abuse of a minor" AF, OR, in other cases, might be deemed "rape" AF, OR, if term of imprisonment of at least one year is imposed, might be deemed a "crime of violence" AF.	Yes.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV. If the record of conviction shows that the victim was a child, the conviction might also be considered a CAC, particularly if conviction under subsection (1)(c).
BURGLARY AND RELATED OFFENSES				
Trespass Violation	140.05	No.	No.	
Criminal trespass, 3rd degree Class B misdemeanor	140.10	No.	No.	
Criminal trespass, 2nd degree Class A misdemeanor	140.15	No.	No.	

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BURGLARY AND RELATED OFFENSES <i>(continued)</i>				
Criminal trespass, 1st degree Class D felony	140.17	If term of imprisonment of at least one year is imposed, would probably be deemed a "crime of violence" AF.	Might be considered a CIMT.	Conviction might be considered a FO if record of conviction establishes that offense involved a firearm.
Burglary, 3rd degree Class D felony	140.20	If term of imprisonment of at least one year is imposed, would probably be deemed a "burglary" AF, or might be deemed a "crime of violence" AF.	Would be considered a CIMT if record of conviction establishes that crime intended to be committed was a CIMT.	
Burglary, 2nd degree Class C felony	140.25	If term of imprisonment of at least one year is imposed, a conviction under subsection (1) would probably be deemed a "burglary" AF or a "crime of violence" AF, and a conviction under subsection (2) would be "burglary" or "crime of violence" AF.	Would be considered a CIMT if record of conviction establishes that crime intended to be committed was a CIMT.	Conviction might be considered a FO if record of conviction establishes that offense involved a firearm.
Burglary, 1st degree Class B felony	140.30	If term of imprisonment of at least one year is imposed, would be a "burglary" or "crime of violence" AF.	Would be considered a CIMT if record of conviction establishes that crime intended to be committed was a CIMT.	Conviction might be considered a FO if record of conviction establishes that offense involved a firearm.

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BURGLARY AND RELATED OFFENSES (<i>concluded</i>)				
Possession of burglar's tools Class A misdemeanor	140.35	No, unless maximum term of imprisonment of one year is imposed in which case might be deemed an attempted "burglary" or "theft" AF.	Might be considered a CIMT if record of conviction establishes that the offense intended to be committed was a CIMT.	
CRIMINAL MISCHIEF AND RELATED OFFENSES				
Criminal mischief, 4th degree Class A misdemeanor	145.00	No, unless maximum term of imprisonment of one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, in which case might be deemed a "crime of violence" AF.	Conviction under subsections (1) or (2) would probably be considered a CIMT; conviction under subsection (3) might be considered a CIMT.	
Criminal mischief, 3rd degree Class E felony	145.05	If term of imprisonment of at least one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, might be deemed a "crime of violence" AF.	Would probably be considered a CIMT.	

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CRIMINAL MISCHIEF AND RELATED OFFENSES <i>(concluded)</i>				
Criminal mischief, 2nd degree Class D felony	145.10	If term of imprisonment of at least one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, might be deemed a “crime of violence” AF.	Would probably be considered a CIMT.	
Criminal mischief, 1st degree Class B felony	145.12	If term of imprisonment of at least one year is imposed, would probably be deemed a “crime of violence” AF.	Would probably be considered a CIMT.	Conviction might be considered a FO (or destructive device offense) if record of conviction establishes that offense involved “destructive device” (as defined in 18 U.S.C. 921(a)).
Reckless endangerment of property Class B misdemeanor	145.25	No.	Would probably NOT be considered a CIMT.	
Making graffiti Class A misdemeanor	145.60	No, unless maximum term of imprisonment of one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, in which case might be deemed a “crime of violence” AF.	Would probably NOT be considered a CIMT.	
Possession of graffiti instrument Class B misdemeanor	145.65	No.	Would probably NOT be considered a CIMT.	

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
ARSON				
Arson, 5th degree Class A misdemeanor	150.01	No, unless maximum term of imprisonment of one year is imposed, in which case would probably be deemed a “crime of violence” AF.	Might be considered a CIMT.	Conviction might be considered a FO (or destructive device offense) if record of conviction establishes that offense involved “destructive device” (as defined in 18 U.S.C. 921(a)).
Arson, 4th degree Class E felony	150.05	If term of imprisonment of at least one year is imposed, would probably be deemed a “crime of violence” AF.	Might be considered a CIMT.	Conviction might be considered a FO (or destructive device offense) if record of conviction establishes that offense involved “destructive device” (as defined in 18 U.S.C. 921(a)).
Arson, 3rd degree Class C felony	150.10	If term of imprisonment of at least one year is imposed, would probably be deemed a “crime of violence” AF.	Yes.	Conviction might be considered a FO (or destructive device offense) if record of conviction establishes that offense involved “destructive device” (as defined in 18 U.S.C. 921(a)).
Arson, 2nd degree Class B felony	150.15	If term of imprisonment of at least one year is imposed, would probably be deemed a “crime of violence” AF.	Yes.	Conviction might be considered a FO (or destructive device offense) if record of conviction establishes that offense involved “destructive device” (as defined in 18 U.S.C. 921(a)).
Arson, 1st degree Class A-I felony	150.20	If term of imprisonment of at least one year is imposed, would probably be deemed a “crime of violence” AF.	Yes.	Conviction might be considered a FO (or destructive device offense) if record of conviction establishes that offense involved “destructive device” (as defined in 18 U.S.C. 921(a)).

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
LARCENY				
Petit larceny Class A misdemeanor	155.25	No, unless maximum term of imprisonment of one year is imposed in which case would probably be deemed a "theft" AF.	Yes.	
Grand larceny, 4th degree Class E felony	155.30	If term of imprisonment of at least one year is imposed, would probably be deemed a "theft" AF.	Yes.	
Grand larceny, 3rd degree Class D felony	155.35	If term of imprisonment of at least one year is imposed, would probably be deemed a "theft" AF.	Yes.	
Grand larceny, 2nd degree Class C felony	155.40	If term of imprisonment of at least one year is imposed, would probably be deemed a "theft" AF.	Yes.	
Grand larceny, 1st degree Class B felony	155.42	If term of imprisonment of at least one year is imposed, would probably be deemed a "theft" AF.	Yes.	

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
ROBBERY				
Robbery, 3rd degree Class D felony	160.05	If term of imprisonment of at least one year is imposed, would be "crime of violence" or theft AF.	Yes.	
Robbery, 2nd degree Class C felony	160.10	If term of imprisonment of at least one year is imposed, would be "crime of violence" or theft AF.	Yes.	Conviction under subsection 2(b) might be considered a FO if record of conviction establishes that offense involved a firearm.
Robbery, 1st degree Class B felony	160.15	If term of imprisonment of at least one year is imposed, would be "crime of violence" or theft AF.	Yes.	Conviction under subsections (2),(3), or (4) might be considered FO if record of conviction establishes that offense involved a firearm.
OTHER OFFENSES RELATED TO THEFT				
Unauthorized use of vehicle, 3rd degree Class A misdemeanor	165.05	No, unless maximum term of imprisonment of one year is imposed in which case might be deemed a "theft" AF.	Would probably NOT be considered a CIMT unless record of conviction establishes permanent taking intended.	
Unauthorized use of vehicle, 2nd degree Class E felony	165.06	If term of imprisonment of at least one year is imposed, might be deemed a "theft" AF.	Would probably NOT be considered a CIMT unless record of conviction establishes permanent taking intended.	
Unauthorized use of vehicle, 1st degree Class D felony	165.08	If term of imprisonment of at least one year is imposed, might be deemed a "theft" AF.	Might be considered a CIMT, particularly if record establishes intent to use vehicle in the commission of a CIMT.	

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
OTHER OFFENSES RELATED TO THEFT <i>(continued)</i>				
Theft of services Violation Class A misdemeanor Class E felony	165.15	If term of imprisonment of one year or more is imposed, might be deemed a “theft” AF.	Would probably be considered a CIMT.	
Jostling Class A misdemeanor	165.25	No.	Would probably NOT be considered a CIMT.	
Criminal possession of stolen property, 5th degree Class A misdemeanor	165.40	No, unless maximum term of imprisonment of one year is imposed in which case would probably be deemed a “theft” AF.	Would probably be considered a CIMT (but note presumption, not actual finding, that person possessed property with intent to benefit himself or another).	
Criminal possession of stolen property, 4th degree Class E felony	165.45	If term of imprisonment of at least one year is imposed, would probably be deemed a “theft” AF.	Would probably be considered a CIMT (but note presumption, not actual finding, that person possessed property with intent to benefit himself or another).	
Criminal possession of stolen property, 3rd degree Class D felony	165.50	If term of imprisonment of at least one year is imposed, would probably be deemed a “theft” AF.	Would probably be considered a CIMT (but note presumption, not actual finding, that person possessed property with intent to benefit himself or another).	
Criminal possession of stolen property, 2nd degree Class C felony	165.52	If term of imprisonment of at least one year is imposed, would probably be deemed a “theft” AF.	Would probably be considered a CIMT (but note presumption, not actual finding, that person possessed property with intent to benefit himself or another).	

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
OTHER OFFENSES RELATED TO THEFT <i>(concluded)</i>				
Criminal possession of stolen property, 1st degree Class B felony	165.54	If term of imprisonment of at least one year is imposed, would probably be deemed a "theft" AF.	Would probably be considered a CIMT (but note presumption, not actual finding, that person possessed property with intent to benefit himself or another).	
FORGERY AND RELATED OFFENSES				
Forgery, 3rd degree Class A misdemeanor	170.05	If maximum term of imprisonment of one year is imposed, would probably be deemed a "forgery" AF; OR, if the loss to the victim(s) exceeds \$10,000, might be deemed a "fraud" AF especially if record of conviction shows element of intent to defraud or deceive (as opposed to injure).	Yes.	
Forgery, 2nd degree Class D felony	170.10	If term of imprisonment of at least one year is imposed, would probably be deemed a "forgery" AF; OR, if the loss to the victim(s) exceeds \$10,000, might be deemed a "fraud" AF especially if record of conviction shows element of intent to defraud or deceive (as opposed to injure)	Yes.	

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
FORGERY AND RELATED OFFENSES <i>(continued)</i>				
Forgery, 1st degree Class C felony	170.15	If term of imprisonment of at least one year is imposed, would probably be deemed a "forgery" AF; OR, if the loss to the victim(s) exceeds \$10,000, might be deemed a "fraud" AF especially if record of conviction shows element of intent to defraud or deceive (as opposed to injure)	Yes.	
Criminal possession of a forged instrument, 3rd degree Class A misdemeanor	170.20	If maximum term of imprisonment of one year is imposed, might be deemed a "forgery" AF; OR, if the loss to the victim(s) exceeds \$10,000, might be deemed a "fraud" AF especially if record of conviction shows element of intent to defraud or deceive (as opposed to injure).	Yes.	

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
FORGERY AND RELATED OFFENSES (<i>concluded</i>)				
Criminal possession of a forged instrument, 2nd degree Class D felony	170.25	If term of imprisonment of at least one year is imposed, might be deemed a “forgery” AF; OR, if the loss to the victim(s) exceeds \$10,000, might be deemed a “fraud” AF especially if record of conviction shows element of intent to defraud or deceive (as opposed to injure).	Yes.	
Criminal possession of a forged instrument, 1st degree Class C felony	170.30	If term of imprisonment of at least one year is imposed, might be deemed a “forgery” AF; OR, if the loss to the victim(s) exceeds \$10,000, might be deemed a “fraud” AF, especially if record of conviction shows element of intent to defraud or deceive (as opposed to injure).	Yes.	
OTHER FRAUDS				
Issuing a bad check Class B misdemeanor	190.05	No.	Would probably NOT be considered a CIMT.	
Criminal impersonation, 2nd degree Class A misdemeanor	190.25	If the loss to the victim(s) exceeds \$10,000, might be deemed a “fraud or deceit” AF.	Would probably be considered a CIMT.	

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
ESCAPE AND OTHER OFFENSES RELATING TO CUSTODY				
Criminal impersonation, 1st degree Class E felony	190.26	If the loss to the victim(s) exceeds \$10,000, might be deemed a "fraud or deceit" AF.	Would probably be considered a CIMT.	
Resisting arrest Class A misdemeanor	205.30	No.	No.	
Hindering prosecution, 3rd degree Class A misdemeanor	205.55	No, unless maximum term of imprisonment of one year is imposed in which case might be deemed an "obstruction of justice" AF.	Might be considered a CIMT.	Would probably NOT be considered a CSO, etc., even if the underlying offense was a CSO, etc. (See Appendix E).
Hindering prosecution, 2nd degree Class E felony	205.60	If term of imprisonment of at least one year is imposed, would probably be deemed an "obstruction of justice" AF.	Might be considered a CIMT.	Would probably NOT be considered a CSO, etc., even if the underlying offense was a CSO, etc. (See Appendix E).
Hindering prosecution, 1st degree Class D felony	205.65	If term of imprisonment of at least one year is imposed, would probably be deemed an "obstruction of justice" AF.	Might be considered a CIMT.	Would probably NOT be considered a CSO, etc., even if the underlying offense was a CSO, etc. (See Appendix E).
OTHER OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS				
Criminal contempt, 2nd degree Class A misdemeanor	215.50	No, unless maximum term of imprisonment of one year is imposed in which case might be deemed an "obstruction of justice" AF.	Might be considered a CIMT.	If conviction involves violation of a protection order, might trigger deportability under CODV clause regarding "violators of protection orders."

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
OTHER OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS <i>(concluded)</i>				
Criminal contempt, 1st degree Class E felony	215.51	If term of imprisonment of at least one year is imposed, would probably be deemed an “obstruction of justice” AF; OR, if term of imprisonment of at least one year is imposed, conviction under subsections b(i), (b)(v) and (b)(vi) would probably be deemed a “crime of violence” AF, and a conviction under subsections (b)(ii) and (b)(iii) might be deemed a “crime of violence” AF. If term of imprisonment of at least one year is imposed and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, conviction under subsection (d) might also be deemed a “crime of violence” AF.	Might be considered a CIMT.	If conviction involves violation of a protection order, might trigger deportability under CODV clause regarding “violators of protection orders.”

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
CONTROLLED SUBSTANCE OFFENSES				
CPCS, 7th degree Class A misdemeanor	220.03	Would probably NOT be deemed a “drug trafficking” AF (but may possibly be deemed a “drug trafficking” AF if record of conviction shows possession of more than 5 grams of crack or any amount of flunitrazepam, or if conviction is for a second or subsequent possession offense)	Would probably NOT be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
CPCS, 5th degree Class D felony	220.06	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802 (but may possibly be deemed not a “drug trafficking crime” AF if not convicted of “intent to sell” or possession of more than 5 grams of crack or any amount of flunitrazepam, and later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals—see App. G, section 1.b).	Would probably NOT be considered a CIMT, although a conviction under subsection (1) requiring “intent to sell” might be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
CONTROLLED SUBSTANCE OFFENSES <i>(continued)</i>				
CPCS, 4th degree Class C felony	220.09	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802 (but may possibly be deemed not a “drug trafficking crime” AF if not convicted of “intent to sell” or possession of more than 5 grams of crack or any amount of flunitrazepam, and later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals—see App. G, section 1.b).	Would probably NOT be considered a CIMT, although a conviction under subsection (13) requiring “intent to sell” might be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
CONTROLLED SUBSTANCE OFFENSES <i>(continued)</i>				
CPCS, 3rd degree Class B felony	220.16	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802 (but may possibly be deemed not a “drug trafficking crime” AF if not convicted of “intent to sell” or possession of more than 5 grams of crack or any amount of flunitrazepam, and later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals—see App. G, section 1.b).	Would probably NOT be considered a CIMT, although a conviction under subsections (1) through (7) requiring “intent to sell” might be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
CONTROLLED SUBSTANCE OFFENSES <i>(continued)</i>				
CPCS, 2nd degree Class A-II felony	220.18	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802 (but may possibly be deemed not a “drug trafficking crime” AF if not convicted of possession of more than 5 grams of crack or any amount of flunitrazepam, and later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals—see App. G, section 1.b).	Would probably NOT be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.

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Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
CONTROLLED SUBSTANCE OFFENSES <i>(continued)</i>				
CPCS, 1st degree Class A-I felony	220.21	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802 (but may possibly be deemed not a “drug trafficking crime” AF if not convicted of possession of more than 5 grams of crack or any amount of flunitrazepam, and later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals—see App. G, section 1.b).	Would probably NOT be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
CSCS, 5th degree Class D felony	220.31	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Would probably be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
CSCS, 4th degree Class C felony	220.34	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Would probably be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
CONTROLLED SUBSTANCE OFFENSES <i>(continued)</i>				
CSCS, 3rd degree Class B felony	220.39	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Would probably be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
CSCS, 2nd degree Class A-II felony	220.41	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Would probably be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
CSCS, 1st degree Class A-I felony	220.43	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Would probably be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
CSCS in or near school grounds Class B felony	220.44	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Would probably be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
Criminally possessing a hypodermic instrument Class A misdemeanor	220.45	No.	Would probably NOT be considered a CIMT.	Might NOT be considered a CSO.

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
CONTROLLED SUBSTANCE OFFENSES (<i>concluded</i>)				
Criminal injection of a narcotic drug Class E felony	220.46	Might be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Might be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
Criminally using drug paraphernalia, 2nd degree Class A misdemeanor	220.50	Might be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Might be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
Criminally using drug paraphernalia, 1st degree Class D felony	220.55	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Might be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
Criminal possession of precursors of CS Class E felony	220.60	Would probably be deemed a “drug trafficking” AF if record of conviction establishes a controlled substance as defined in 21 USC 802.	Might be considered a CIMT.	Would be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
OFFENSES INVOLVING MARIHUANA				
Unlawful possession of marihuana Violation	221.05	Would probably NOT be deemed a “drug trafficking” AF (but may possibly be deemed a “drug trafficking” AF if conviction is for a second or subsequent possession offense)	Would probably NOT be considered a CIMT.	Would be considered a CSO for inadmissibility purposes; however, for deportability purposes, would be CSO only if record of conviction establishes possession of more than 30 grams of marihuana, or if more than one offense involving possession of 30 grams or less of marihuana.
Criminal possession of marihuana (CPM), 5th degree Class B misdemeanor	221.10	Would probably NOT be deemed a “drug trafficking” AF (but may possibly be deemed a “drug trafficking” AF if conviction is for a second or subsequent possession offense).	Would probably NOT be considered a CIMT.	Would be considered a CSO for inadmissibility purposes; however, for deportability purposes, would be CSO only if record of conviction establishes possession of more than 30 grams of marihuana, or if more than one offense involving possession of 30 grams or less of marihuana.
CPM, 4th degree Class A misdemeanor	221.15	Would probably NOT be deemed a “drug trafficking” AF (but may possibly be deemed a “drug trafficking” AF if conviction is for a second or subsequent possession offense).	Would probably NOT be considered a CIMT.	Would be considered a CSO.

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
OFFENSES INVOLVING MARIHUANA <i>(continued)</i>				
CPM, 3rd degree Class E felony	221.20	Would probably be deemed a “drug trafficking” AF (but may possibly be deemed not a “drug trafficking” AF if later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals—see App. G., section 1.b).	Would probably NOT be considered a CIMT.	Would be considered a CSO.
CPM, 2nd degree Class D felony	221.25	Would probably be deemed a “drug trafficking” AF (but may possibly be deemed not a “drug trafficking” AF if later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals—see App. G., section 1.b).	Would probably NOT be considered a CIMT.	Would be considered a CSO.
CPM, 1st degree Class C felony	221.30	Would probably be deemed a “drug trafficking” AF (but may possibly be deemed not a “drug trafficking” AF if later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals—see App. G., section 1.b).	Would probably NOT be considered a CIMT.	Would be considered a CSO.

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
OFFENSES INVOLVING MARIHUANA (<i>concluded</i>)				
CSM, 5th degree Class B misdemeanor	221.35	Might be deemed a “drug trafficking” AF (unless later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals —see App. G., section 1.b).	Might be considered a CIMT.	Would be considered a CSO.
CSM, 4th degree Class A misdemeanor	221.40	Might be deemed a “drug trafficking” AF (unless later removal proceedings are held within jurisdiction of the Third Circuit U.S. Court of Appeals —see App. G., section 1.b).	Would probably be considered a CIMT.	Would be considered a CSO.
CSM, 3rd degree Class E felony	221.45	Would probably be deemed a “drug trafficking” AF.	Would probably be considered a CIMT.	Would be considered a CSO.
CSM, 2nd degree Class D felony	221.50	Would probably be deemed a “drug trafficking” AF.	Would probably be considered a CIMT.	Would be considered a CSO.
CSM, 1st degree Class C felony	221.55	Would probably be deemed a “drug trafficking” AF.	Would probably be considered a CIMT.	Would be considered a CSO.
PROSTITUTION OFFENSES				
Prostitution Class B misdemeanor	230.00	No.	Yes.	Would trigger “prostitution” inadmissibility.

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Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
PROSTITUTION OFFENSES <i>(continued)</i>				
Patronizing a prostitute, 4th degree Class B misdemeanor	230.03	If record of conviction establishes that prostitute was a minor, might be deemed a “sexual abuse of a minor” AF.	Would probably be considered a CIMT.	
Patronizing a prostitute, 3rd degree Class A misdemeanor	230.04	Might be deemed a “sexual abuse of a minor” AF.	Would probably be considered a CIMT.	
Patronizing a prostitute, 2nd degree Class E felony	230.05	Might be deemed a “sexual abuse of a minor” AF.	Would probably be considered a CIMT.	
Patronizing a prostitute, 1st degree Class D felony	230.06	Might be deemed a “sexual abuse of a minor” AF.	Would probably be considered a CIMT.	
Promoting prostitution, 4th degree Class A misdemeanor	230.20	Might be deemed a “prostitution business” AF; OR, if record of conviction establishes that prostitution promoted was of a minor, might be deemed a “sexual abuse of a minor” AF.	Would probably be considered a CIMT.	Might trigger “prostitution” inadmissibility.
Promoting prostitution, 3rd degree Class D felony	230.25	Would probably be deemed a “prostitution business” AF; OR, if record of conviction establishes that prostitution promoted was of a minor, might be deemed a “sexual abuse of a minor” AF.	Would probably be considered a CIMT.	Might trigger “prostitution” inadmissibility.

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
PROSTITUTION OFFENSES (<i>concluded</i>)				
Promoting prostitution, 2nd degree Class C felony	230.30	Would probably be deemed a “prostitution business” AF; OR, if record of conviction establishes that prostitution promoted was of a minor, might be deemed a “sexual abuse of a minor” AF; OR, if term of sentence imposed is at least one year, conviction under subsection (1) might be deemed a “crime of violence” AF, particularly if record of conviction shows compulsion by force (as opposed to intimidation).	Would probably be considered a CIMT.	Might trigger “prostitution” inadmissibility.
Promoting prostitution, 1st degree Class B felony	230.32	Would probably be deemed a “prostitution business” AF; OR, might be deemed a “sexual abuse of a minor” AF.	Would probably be considered a CIMT.	Might trigger “prostitution” inadmissibility.
Permitting prostitution Class B misdemeanor	230.40	Probably NOT.	Might be considered a CIMT.	Might trigger “prostitution” inadmissibility.
OFFENSES AGAINST PUBLIC ORDER				
Disorderly conduct Violation	240.20	No.	No.	

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
OFFENSES AGAINST PUBLIC ORDER <i>(continued)</i>				
Harassment, 1st degree Class B misdemeanor	240.25	No.	Might be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual and later removal proceedings are held outside of the jurisdiction of the Second Circuit U.S. Court of Appeals, a conviction might be considered a CODV. A conviction might also trigger deportability under CODV clause regarding “crime of stalking.”
Harassment, 2nd degree Violation	240.26	No.	Might be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual, a conviction under subsection (1) might be considered a CODV. A conviction might also trigger deportability under CODV clause regarding “crime of stalking.”
Aggravated harassment, 2nd degree Class A misdemeanor	240.30	No, unless maximum term of imprisonment of one year is imposed in which case conviction under subsections (3) or (4) might be deemed a “crime of violence” AF.	Might be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual, a conviction under subsections (3) or (4) might be considered a CODV. A conviction might trigger deportability under CODV clause regarding “crime of stalking.”
Aggravated harassment, 1st degree Class E felony	240.31	If term of imprisonment of at least one year is imposed, might be deemed a “crime of violence” AF.	Would probably be considered a CIMT.	If the victim was a current or former spouse or similarly situated individual, a conviction might be considered a CODV. A conviction might also trigger deportability under CODV clause regarding “crime of stalking.”
Loitering Violation	240.35	No.	Convictions under subsections (2) and (3) might be considered a CIMT.	
Loitering, 1st degree Class B misdemeanor	240.36	No.	Might be considered a CIMT.	Might be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
OFFENSES AGAINST PUBLIC ORDER (<i>concluded</i>)				
Loitering for the purpose of engaging in a prostitution offense Violation Class B misdemeanor Class A misdemeanor	240.37	No.	Might be considered a CIMT.	Might trigger "prostitution" inadmissibility.
Appearance in public under influence of drug other than alcohol Violation	240.40	No.	Would probably NOT be considered a CIMT.	Might be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
Criminal nuisance, 2nd degree Class B misdemeanor	240.45	No.	Might be considered a CIMT.	
Criminal nuisance, 1st degree Class E felony	240.46	Might be deemed a "drug trafficking" AF.	Might be considered a CIMT.	Might be considered a CSO if record of conviction establishes a controlled substance as defined in 21 USC 802.
OFFENSES RELATING TO CHILDREN AND INCOMPETENTS				
Endangering the welfare of a child Class A misdemeanor	260.10	Probably NOT.	Conviction under subsection (1) might be considered a CIMT.	Conviction might be considered a CAC.

REFERENCE CHART FOR DETERMINING KEY IMMIGRATION CONSEQUENCES OF COMMON NY OFFENSES

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
FIREARMS AND OTHER DANGEROUS WEAPONS				
Criminal possession of a weapon, 4th degree Class A misdemeanor	265.01	Probably NOT unless record of conviction establishes conviction under subsection (4) or an offense akin to one described in 18 U.S.C. 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r), 18 U.S.C. 924 (b) or (h), or 26 U.S.C. 5861, in which case might be deemed a “firearm offense” AF.	Would probably be considered a CIMT if convicted under subsections (2) or (8) requiring intent to use weapon.	Conviction under subsections (1) through (6) would be considered a FO but only if record of conviction establishes that offense involved a firearm or destructive device (as defined in 18 USC 921(a).
Criminal possession of a weapon, 3rd degree Class D felony	265.02	If term of imprisonment of at least one year is imposed, might be deemed a “crime of violence” AF; OR, if record of conviction establishes an offense akin to one described in 18 U.S.C. 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r), 18 U.S.C. 924 (b) or (h), or 26 U.S.C. 5861, might be deemed a “firearm offense” AF.	Would probably be considered a CIMT if convicted under subsection (1) (when referencing CPW, 4th degree, subsection (2)).	Would be considered a FO but only if record of conviction establishes firearm or destructive device (as defined in 18 USC 921(a)).

Offense	NY Penal Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Other Grounds: Controlled Subst. Offense (CSO) Crime Against Children (CAC) Crime Of Dom. Viol., etc. (CODV) Firearm Offense (FO) Prostitution
FIREARMS AND OTHER DANGEROUS WEAPONS (<i>concluded</i>)				
Criminal possession of a weapon, 2nd degree Class C felony	265.03	If term of imprisonment of at least one year is imposed, would probably be deemed a "crime of violence" AF; OR, if record of conviction establishes an offense akin to one described in 18 U.S.C. 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r), 18 U.S.C. 924 (b) or (h), or 26 U.S.C. 5861, might be deemed a "firearm offense" AF.	Would probably be considered a CIMT.	Would be considered a FO if record of conviction establishes firearm or destructive device (as defined in 18 USC 921(a)).
Criminal possession of a dangerous weapon, 1st degree Class B felony	265.04	If term of imprisonment of at least one year is imposed, would probably be deemed a "crime of violence" AF; OR, if record of conviction establishes an offense akin to one described in 18 U.S.C. 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r), 18 U.S.C. 924 (b) or (h), or 26 U.S.C. 5861, might be deemed a "firearm offense" AF.	Would probably be considered a CIMT.	Would be considered a FO if record of conviction establishes firearm or destructive device (as defined in 18 USC 921(a)).

NEW YORK VEHICLE AND TRAFFIC LAW OFFENSES

Offense	NY Vehicle and Traffic Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Controlled Substance Offense (CSO)?
SUSPENSION AND REVOCATION OF DRIVER'S LICENSES				
Aggravated unlicensed operation of a vehicle, 3rd degree Misdemeanor	511(1)	No.	Would probably NOT be considered a CIMT.	
Aggravated unlicensed operation of a vehicle, 2nd degree Misdemeanor	511(2)	No.	Might be considered a CIMT.	
Aggravated unlicensed operation of a vehicle, 1st degree Class E felony	511(3)	Probably NOT (but if conviction is under subsection (a)(i) (under the influence of alcohol or a drug) possibly may be deemed a "crime of violence" AF if term of imprisonment of at least one year is imposed, and later removal proceedings are held within jurisdiction of Circuit Courts of Appeals that have held DUI to be "crime of violence" AF—see App. G, section 1.f).	Conviction under subsection (a)(i) would probably be considered a CIMT.	Might be deemed a CSO if record of conviction establishes a controlled substance as defined in 21 U.S.C. 802.
Facilitating aggravated unlicensed operation of a vehicle, 3rd degree Traffic infraction	511a-(1)	No.	Would probably NOT be considered a CIMT.	
Facilitating aggravated unlicensed operation of a vehicle, 2nd degree Misdemeanor	511a-(3)	No.	Would probably NOT be considered a CIMT.	
Facilitating aggravated unlicensed operation of a vehicle, 1st degree Class E Felony	511a-(4)	No.	Would probably NOT be considered a CIMT.	

NEW YORK VEHICLE AND TRAFFIC LAW OFFENSES *(cont'd.)*

Offense	NY Vehicle and Traffic Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Controlled Substance Offense (CSO)?
SUSPENSION AND REVOCATION OF DRIVER'S LICENSES <i>(concluded)</i>				
Operation while registration or privilege is suspended or revoked. Misdemeanor	512	No.	Would probably NOT be considered a CIMT.	
ALCOHOL AND DRUG-RELATED OFFENSES				
Driving while ability impaired Traffic infraction Misdemeanor	1192(1)	No.	Would probably NOT be considered a CIMT.	
Driving while intoxicated; per se Misdemeanor Class E felony	1192(2)	Probably NOT (but possibly may be deemed "crime of violence" AF if term of imprisonment of at least one year is imposed, and later removal proceedings are held within jurisdiction of Circuit Courts of Appeals that have held DUI to be a "crime of violence" AF—see App. G, section 1.f).	Without any aggravating circumstance, would probably NOT be considered a CIMT; however, might be considered CIMT if record of conviction establishes circumstance such as driving while knowing license suspended or revoked due to prior conviction for driving under the influence of alcohol or drugs.	
Driving while intoxicated Misdemeanor Class E felony	1192(3)	Probably NOT (but possibly may be deemed "crime of violence" AF if term of imprisonment of at least one year is imposed, and later removal proceedings are held within jurisdiction of Circuit Courts of Appeals that have held DUI to be a "crime of violence" AF—see App. G, section 1.f).	Without any aggravating circumstance, would probably NOT be considered a CIMT; however, might be considered CIMT if record of conviction establishes circumstance such as driving while knowing license suspended or revoked due to prior conviction for driving under the influence of alcohol or drugs.	

NEW YORK VEHICLE AND TRAFFIC LAW OFFENSES *(cont'd.)*

Offense	NY Vehicle and Traffic Law Section	Aggravated Felony (AF)?	Crime Involving Moral Turpitude (CIMT)?	Controlled Substance Offense (CSO)?
ALCOHOL AND DRUG-RELATED OFFENSES <i>(concluded)</i>				
Driving while ability impaired by drugs Misdemeanor Class E felony	1192(4)	Probably NOT (but possibly may be deemed “crime of violence” AF if term of imprisonment of at least one year is imposed, and later removal proceedings are held within jurisdiction of Circuit Courts of Appeals that have held DUI to be a “crime of violence” AF—see App. G, section 1.f).	Without any aggravating circumstance, would probably NOT be considered a CIMT; however, might be considered CIMT if record of conviction establishes circumstance such as driving while knowing license suspended or revoked due to prior conviction for driving under the influence of alcohol or drugs.	Might be deemed a CSO if record of conviction establishes a controlled substance as defined in 21 U.S.C. 802.

