

Chapter 4

Conviction and Sentence for Immigration Purposes

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Most of the crime-related grounds of deportability and some of the crime-related grounds of inadmissibility require a conviction to make a noncitizen deportable or inadmissible. Even where criminal conduct may be sufficient for removal without a conviction, the U.S. Immigration and Customs Enforcement (ICE) may not be able to establish the conduct without a conviction. Therefore, in practice, ICE usually relies on convictions to establish deportability and inadmissibility.

Criminal defense attorneys should be aware that there is a statutory definition of conviction for immigration purposes. State law does *not* determine whether a state disposition will be considered a conviction for immigration law purposes. For example, a state disposition that results in the dismissal of all criminal charges may still be a conviction for immigration purposes in some instances.

Chapter 3 describes the offenses that trigger the principal immigration consequences for a defendant. *See also* Appendix A, Selected Immigration Consequences of North Carolina Offenses. Once you have determined that a particular offense is one that may trigger immigration consequences for your client, you must then determine whether the potential disposition in the

case would be considered a conviction for immigration purposes. You must also consider whether the potential sentence is of the type or length that would trigger adverse consequences.