

7.1 Summary of Procedures Related to Removal

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U.S. Immigration and Customs Enforcement (ICE) is responsible for the detention and removal of noncitizens. One of the agency's priorities is removing certain noncitizens in jails and prisons. Currently, five counties in North Carolina—Wake, Mecklenburg, Gaston, Cabarrus, and Henderson—have also prioritized the removal of noncitizens in the criminal justice system by entering into agreements with the federal government to enforce federal immigration law. ICE and cooperating law enforcement agents generally identify such individuals for removal by submitting their fingerprints through various federal databases.

If an individual may be removable based on a lack of status or a prior criminal conviction, ICE takes the position that it can issue a detainer pretrial to assume custody of the individual. *See infra* § 7.3A, Purpose of Detainer. If an individual with lawful status becomes removable upon conviction, ICE will likely assume custody of the individual upon completion of any jail or prison sentence. Even if ICE does not take any immediate action against someone who has become removable due to a conviction, such an individual may still be placed into removal proceedings upon a future contact with immigration officials. For example, noncitizens have been placed in removal proceedings when returning to the U.S. after traveling abroad, when applying for a green card, or when applying to naturalize. There is no statute of limitations on how long after a conviction ICE can initiate removal proceedings against a noncitizen.

Once an individual has been formally charged as removable, ICE has broad discretion to detain the person pending removal. Some noncitizens are eligible for immigration bond, but many noncitizens with criminal convictions are not eligible for release on bond and are therefore detained pending the completion of removal proceedings. *See infra* § 7.4A, Mandatory Detention.

There are different types of removal procedures. Many noncitizens receive a hearing in immigration court. At a removal hearing, the immigration court determines whether the noncitizen is removable under the charged grounds of inadmissibility or deportability and eligible for any relief from removal. *See infra* § 7.4B, Removal Proceedings.