

Criminal grounds of inadmissibility come up a lot in family based immigration, usually at the visa interview abroad, sometimes at [adjustment of status](#) inside the United States. And it can feel random at first. Someone has an old case. Someone pled to something small. Someone thought it was sealed or expunged. Then the government labels the person inadmissible, which is different from deportable, and the whole case stops unless a waiver applies.

This is not about guilt or innocence. Inadmissibility is a technical legal category. The core job in these cases is: identify the exact inadmissibility ground, confirm whether a waiver exists, confirm who qualifies, and build the waiver packet so it matches the legal standard.

Inadmissible vs deportable

Inadmissibility is about being allowed to enter the US or receive permanent residence. It applies at consulates and also at adjustment of status. Deportability is about being removed after admission. A person can be both, but the waiver tools differ, and the timing differs.

So the first step is always the same: figure out what the government is actually charging. Sometimes it is not the obvious conviction. Sometimes it is an admission to drug use. Sometimes it is a “reason to believe” allegation. The waiver strategy changes fast depending on that.

The criminal grounds that most often block family cases

These are the common ones in family petitions:

Crimes involving moral turpitude (CIMT)

This is a category, not a specific statute. Many theft, fraud, and certain assault type offenses can be labeled CIMTs. There are exceptions, and there are waiver options in some situations.

Controlled substance violations

A single conviction related to a controlled substance often triggers inadmissibility. Waivers are extremely limited. The biggest narrow opening is a single offense of simple possession of 30 grams or less of marijuana.

Multiple criminal convictions

Even if none are CIMTs, two or more convictions with an aggregate sentence to confinement of 5 years or more can trigger inadmissibility.

Prostitution and commercialized vice

This can include engaging in prostitution within certain time frames, or related activities, and it has its own waiver rules.

Drug trafficking and “reason to believe”

This one is brutal. A trafficking conviction is usually fatal. But even without a conviction, a consular officer can find inadmissibility based on “reason to believe” involvement in trafficking. Waivers generally do not fix this in family cases.

Significant immigration related crimes

Smuggling, document fraud, false claims, and misrepresentation overlap with criminal records sometimes. These can create separate inadmissibility grounds with different waivers. It is common to have both a criminal issue and a fraud issue at the same time.

The waivers that matter most in family based cases

There are a few waiver types that show up again and again. The names get confusing because people say “a waiver” like it is one thing. It is not.

1) INA 212(h) waiver (criminal inadmissibility waiver)

This is the main criminal waiver used for family based immigration.

What it can waive, in many cases:

- CIMT inadmissibility
- Multiple criminal convictions (the 5 year aggregate sentence ground)
- Prostitution and commercialized vice
- A single offense of simple possession of 30 grams or less of marijuana

What it generally cannot waive:

- Most controlled substance violations beyond the 30g marijuana exception
- Drug trafficking or “reason to believe” trafficking
- Certain other security and related bars

Who can qualify (common paths):

- **Extreme hardship** to a qualifying relative who is a US citizen or lawful permanent resident spouse, parent, son, or daughter (qualifying relative definitions matter here and can vary by the exact basis)
- **15 year rehabilitation path** in some cases, when the activity occurred more than 15 years before the application and rehabilitation plus national welfare considerations are shown
- **VAWA related path** for certain self petitioners, with different hardship framing

Big practical point: For many family cases, the waiver hinges on proving **extreme hardship** to a qualifying relative, not hardship to the applicant. Hardship evidence is the center of the packet. Medical, financial, mental health, country conditions, childcare responsibilities, and dependency patterns, that's what usually moves the needle.

Also, 212(h) has special restrictions for some lawful permanent residents with aggravated felony issues after admission, and for those who did not "lawfully reside" for required periods in certain contexts. The details matter because they can turn an apparently eligible case into a denial.

2) INA 212(i) waiver (fraud or willful misrepresentation)

This is not a criminal waiver, but it shows up constantly alongside criminal history.

If there was a lie to get a visa, a false statement at the border, fake documents, or even certain omissions, the government

can charge inadmissibility for willful misrepresentation. This is separate from the criminal charge even if the lie was part of the criminal case.

Standard: Extreme hardship to a **US citizen or lawful permanent resident spouse or parent** is the classic qualifying relative structure for 212(i). Children are not qualifying relatives for the basic 212(i) framework, though hardship to children can still be used as part of the spouse or parent hardship story.

3) I 601 waiver vs I 601A (the form is not the waiver)

People mix these up.

- **Form I 601** is used for several inadmissibility grounds, including many criminal grounds, fraud, and some medical issues. It is often filed after a consular finding of inadmissibility, but can also be filed in other procedural postures.
- **Form I 601A** is a provisional waiver, and it is for **unlawful presence only**. Not criminal inadmissibility. Not fraud. Not controlled substances.

A common trap is assuming 601A fixes everything. It does not. If criminal inadmissibility is present, a 601A approval does not prevent a denial at the interview for the criminal ground.

4) INA 212(d)(3) nonimmigrant waiver (temporary visa waiver)

This is for **nonimmigrant** visas like B visas, student, certain work visas. It is not for immigrant visas or green cards.

It can sometimes overcome certain criminal inadmissibility grounds for temporary entry. It is discretionary, and it usually requires showing the purpose of travel, risk level, and equities. It can be a practical tool when the goal is short term travel and immigrant processing is not viable.

5) INA 212(a)(2)(A)(ii) exceptions (not a waiver, but it functions like one)

Before jumping into waivers, check if the person is actually inadmissible under the charged criminal category.

Two common examples for CIMTs:

- **Petty offense exception** (depends on maximum possible penalty and actual sentence)
- **Youthful offender exception** (certain offenses committed under age 18 with timing rules)

If an exception applies, a waiver may not be needed at all. Consular processing can still be messy if records are unclear, but legally it matters.

What “extreme hardship” usually means in practice

The term is subjective but it is not unlimited. It is more than the normal pain of separation. The strongest packets tend to show hardship that stacks in multiple categories.

Common hardship themes that tend to show up in real approvals:

- A documented medical condition with treatment continuity issues
- Mental health impact supported by a clinician, not just personal statements
- Financial dependence and credible inability to maintain stability alone
- Special needs children where the qualifying relative is the stabilizing caregiver
- Safety concerns in the foreign country supported by reputable reports
- Prior trauma, caregiving obligations for elderly parents, or similar dependency facts

Weak packets tend to be vague. General stress, general sadness, general “it will be hard”, with no documents, no timeline, no costs, no providers, no diagnosis.

Criminal record analysis problems that derail waivers

A lot of denials happen earlier than the hardship argument.

The wrong statute documents

Immigration analysis is statute specific. A “criminal record summary” is rarely enough. The actual charging document, plea, judgment, and sometimes transcript are needed.

Expungements and sealed cases

For immigration, expunged does not automatically mean gone. Some dispositions still count. Some do not. It depends on the legal basis and what actually happened in court.

Admissions without convictions

Inadmissibility can be based on admissions in certain contexts. Drug admissions are a classic example. A person can become inadmissible without a conviction if the legal standards for a valid “admission” are met.

Mislabeled the ground

CIMT vs controlled substance vs multiple convictions. Or misrepresentation layered on top. Each one changes qualifying relatives and waiver type.

A simple way to think about strategy

1. **Identify the exact inadmissibility charge.** Not the crime name. The INA section and the theory.
2. **Check for exceptions first.** Petty offense and youth exceptions can remove the need for a waiver.
3. **If a waiver is available, confirm eligibility.** Especially qualifying relatives and any statutory bars.
4. **Build the waiver around the legal standard.** Usually extreme hardship plus discretionary equities.
5. **Do not ignore discretionary risk.** Even if eligible, USCIS can deny as a matter of discretion. Rehabilitation evidence matters.

Common situations and what usually applies

Old theft or fraud conviction

Often treated as CIMT. Check petty offense exception first. If inadmissible, 212(h) may be available.

DUI

A simple DUI is not automatically a CIMT, but it can trigger other issues like medical related inadmissibility if there are findings of alcohol abuse. If there are aggravating factors, it can get complicated.

Simple marijuana possession

If it is a single offense and fits 30 grams or less, [212\(h\) may cover it](#). However, if it is more than that, or multiple offenses occur, waiver options shrink fast.

Domestic violence related convictions

Some can be CIMTs, some not, and some can be aggravated felonies depending on the statute and sentence. Waiver eligibility depends on that analysis.

Arrest without conviction

Sometimes no inadmissibility applies, but there could still be a problem if there are admissions, or if the officer uses conduct-based grounds in limited contexts. Records still matter because consulates often ask for certified dispositions.

Closing points that keep cases from collapsing late

- A waiver is not automatic. Eligibility is one thing, discretion is another.
- The form number is not the waiver. The statute is the waiver.
- Controlled substance issues are the tightest category. Many cannot be waived at all.
- When waivable, extreme hardship documentation is usually the deciding factor, not the personal narrative alone.
- Clean, certified court records and a correct statutory analysis prevent wasted months on the wrong waiver path.