



Immigration-Related Crimes

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Through the [Immigration and Nationality Act](#) (INA) and [other laws](#), Congress has established a comprehensive framework governing the admission, removal, and presence of people who are not citizens or nationals of the United States ([aliens](#)). These rules are buttressed by an enforcement scheme that includes civil and criminal components. Aliens who have engaged in certain kinds of proscribed conduct may be [denied admission](#) into the United States or, if present, [face removal](#) through civil proceedings. Congress has also established criminal penalties for some activities that undermine immigration rules and requirements, such as [smuggling](#) aliens into the country. Some of these offenses carry severe penalties.

Immigration-related crimes make up a significant portion of the federal criminal docket. The U.S. Sentencing Commission [reported](#) that in 66,662 cases involving individuals sentenced for a federal offense in FY2025, a 37.7% plurality ([22,743](#)) involved [immigration-related offenses](#). This Legal Sidebar begins by discussing how the criminal enforcement components of federal immigration law contrast with the civil enforcement components, and then briefly describes the range of immigration-related criminal offenses in federal statute.

Differences Between Criminal and Civil Components of Immigration Enforcement

Federal immigration law includes both civil and criminal components. Civil enforcement mechanisms are intended to [correct or remedy a statutory violation](#), whereas criminal enforcement mechanisms are primarily aimed at [punishing](#) an offense and deterring future wrongdoing. The Supreme Court has [long characterized](#) immigration removal proceedings as civil in nature, despite the potentially severe consequences for the removed individual. Other immigration violations—[such as knowingly hiring or recruiting aliens for work who lack authorization](#) for employment—may be subject to civil fines and, unlike immigration removal proceedings, apply to offenders (e.g., employers) regardless of citizenship or alienage.

Congress has enacted numerous criminal statutes that address immigration-related conduct. Some criminal offenses carry [relatively minor misdemeanor penalties](#), while others constitute felonies potentially punishable by [lengthy prison terms](#) and, for a few offenses involving aggravating circumstances, [life imprisonment or death](#).

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Whether an immigration requirement is enforced through criminal or civil mechanisms informs the rights to which an alleged offender is entitled. The Constitution contains several provisions affording protections to the defendant in a criminal prosecution, including the Fifth Amendment’s requirement of a [grand jury indictment](#) before a defendant may be brought to trial for a serious crime, and the Sixth Amendment’s guarantee of a defendant’s rights [to a speedy trial, to a trial by jury](#) if charged with a non-petty offense, and to [representation by counsel](#) (which the Supreme Court has held to require the government to [appoint counsel](#) if an indigent defendant is charged with an offense punishable by imprisonment). The Fifth Amendment’s [Due Process Clause](#) has also been understood to require the government to prove the criminal defendant’s guilt [beyond a reasonable doubt](#), and courts enforce the [Fourth Amendment’s prohibition against unreasonable searches and seizures](#) by generally [barring](#) the government from using illegally obtained evidence in a later prosecution. These constitutional protections are supplemented by a [host of statutory rules governing](#) criminal proceedings and affording the defendant the right to appeal the validity of a [conviction](#) or [sentence](#).

Many of these procedural protections [do not apply](#) to civil proceedings generally and immigration removal proceedings specifically. The constitutional rights afforded to aliens placed in removal proceedings (including both [removal proceedings](#) before an administrative adjudicatory body and more [streamlined removal processes](#) before an immigration officer) primarily flow from the [Due Process Clause](#), which confers substantive and procedural protections on [all persons](#) within the United States, regardless of alienage and legal status. Nonetheless, while the Supreme Court [has said](#) that removal proceedings for aliens who have “passed through our gates” must comply with “traditional standards of fairness,” the Court has also [recognized](#) that the scope of protections to which an alien is entitled “may vary depending upon status and circumstance,” and that in [exercising](#) its plenary authority over the admission and removal of aliens, “Congress may make rules ... that would be unacceptable if applied to citizens.” Against this constitutional backdrop, the procedural protections Congress has granted to aliens in removal proceedings are less robust than those the Constitution affords to all criminal defendants. [Table 1](#) highlights some of the major differences between criminal trials and immigration removal proceedings.

Table I. Key Features of Criminal Trials vs. Immigration Removal Proceedings

Key Features	Criminal Trial	Removal Proceeding
Function	To determine whether the defendant committed an offense subject to criminal punishment, potentially including fine, imprisonment, or—in limited cases—death	To determine whether the alien committed an immigration violation rendering him or her removable from the United States
Timing of Proceeding	Constitutional and statutory right to a speedy trial; statutes of limitations set time limits for the initiation of many criminal prosecutions	No enforceable right to prompt initiation of removal proceedings, though immigration authorities are directed to commence proceedings against certain criminal aliens expeditiously
Nature of Proceeding	Judicial proceeding before an Article III court	Usually administrative in nature; depending on the alleged violation and the alien’s status, may occur before an administrative adjudicatory body within the Department of Justice or before an immigration officer within the Department of Homeland Security
Grand Jury Indictment	Indictment constitutionally required for a federal felony prosecution to proceed	No grand jury indictment required

Right to Jury Trial	Right to trial by jury if the offense is punishable by more than six months' imprisonment	No jury trial required
Right to Counsel	Constitutional right to court-appointed counsel if the defendant cannot afford one and the offense is punishable by imprisonment	Statutory privilege to obtain counsel at no expense to the government in removal proceedings before administrative adjudicatory body; no privilege to seek counsel in removal processes conducted by immigration officers
Introduction of Evidence	Federal Rules of Evidence govern criminal trials; government generally cannot introduce evidence obtained in violation of the Fourth Amendment	Federal Rules of Evidence do not govern and the Fourth Amendment's exclusionary rule is generally inapplicable; evidence of removability must be probative and not render the proceeding fundamentally unfair
Burden of Proof	Government must prove guilt beyond a reasonable doubt	For aliens admitted into the United States, government typically must prove removability by clear and convincing evidence; for aliens charged with being present without admission or parole, once government proves alienage, the alien has the burden of showing by clear and convincing evidence that he or she has been lawfully admitted or, in the absence of such proof, that he or she is clearly and beyond a doubt entitled to be admitted; arriving aliens also bear the burden of showing that they are clearly and beyond a doubt entitled to be admitted
Judicial Review/Right to Appeal	Statutory right to appeal validity of conviction and sentence	Limited judicial review of a final order of removal; in some cases, review is unavailable

Source: CRS.

Sometimes conduct that makes aliens removable from the United States is also punishable under criminal statute. For example, an alien apprehended shortly after surreptitiously entering the United States is not only potentially subject to removal by immigration authorities, but also may face criminal prosecution for improper entry. Decisions as to whether a removable alien in immigration authorities' custody will be referred to criminal law enforcement authorities may depend on a number of factors, including the nature of the offense, prosecutorial resources, and enforcement priorities. Criminal prosecution and civil removal are distinct proceedings, and the pursuit of one does not necessarily preclude the use of the other. The INA provides that convictions for many criminal offenses constitute grounds to initiate removal proceedings. The INA also provides a mechanism by which a judge in a criminal proceeding may, in qualifying cases, issue an order of removal against an alien criminal defendant at the time of sentencing, and also issue an order of removal against a deportable alien as part of a stipulated plea agreement in a criminal prosecution.

Categories of Crimes Involving Immigration-Related Matters

Federal statutes contain numerous criminal offenses penalizing conduct that undermines immigration rules and requirements. Many immigration-related criminal offenses are found in INA provisions codified

in Title 8 of the U.S. Code, but some are found in Title 18. As detailed in **Table 2**, in recent years the most commonly enforced immigration-related criminal statutes have been 8 U.S.C. § 1324 (bringing in and harboring certain aliens); 8 U.S.C. § 1325(a) (improper alien entry); and 8 U.S.C. § 1326 (illegal reentry of an alien ordered removed).

Table 2. Defendants Charged Under 8 U.S.C. §§ 1324, 1325, and 1326 in Recent Fiscal Years

Criminal Statute	FY2023	FY2024	FY2025	FY2026 (through March 2026)
8 U.S.C. § 1324 (bringing in and harboring certain aliens)	5,066	4,794	4,182	1,841
8 U.S.C. § 1325 (improper entry)	5,777	10,890	25,856	13,165
8 U.S.C. § 1326 (illegal reentry of alien ordered removed)	14,350	18,883	28,854	14,481

Source: Office of the United States Attorneys, U.S. Dep’t of Justice, Prosecuting Immigration Crimes Report with accompanying data tables, <https://www.justice.gov/usao/resources/PICReport>.

Notes: Defendants charged with multiple offenses are counted once in each charge group. Charges under 8 U.S.C. § 1325 include combined totals of charges brought before U.S. district courts and U.S. magistrates (who may adjudicate misdemeanor offenses).

These and other immigration-related criminal offenses found in Title 8 and Title 18 of the U.S. Code fall into three overarching and overlapping categories: (1) offenses related to unlawful alien entry, (2) offenses related to unlawful alien presence, and (3) immigration-related fraud. It may be possible for the government to prosecute the same conduct under multiple criminal statutes, provided that each offense requires the government to prove at least one unique element that need not be proven for the other charged offenses.

Offenses Concerning Unlawful Entry

A number of criminal statutes, including 8 U.S.C. §§ 1324, 1325(a), and 1326, address unlawful alien entry. Sections 1325(a) and 1326 are directed at the unlawful entrants themselves, whereas Section 1324 targets persons who facilitate others’ improper entry.

Section 1325(a) makes it a criminal offense to enter or attempt to enter the United States without authorization—whether by (1) entering or attempting to enter the country at a time or place other than as designated by immigration authorities; (2) eluding inspection by immigration officers; or (3) entering or obtaining entry by a willfully false or misleading representation or the willful concealment of a material fact. A first-time violation of Section 1325(a) is a misdemeanor subject to a fine and imprisonment for up to six months, while subsequent offenses are felonies punishable by up to two years’ imprisonment.

Section 1326 provides that it is a felony for an alien who was previously removed from the United States to reenter the country while an order of removal remains in effect, unless expressly authorized by immigration authorities. By default, a conviction carries a punishment of a fine and imprisonment for up to two years. Aliens may face **enhanced penalties**, potentially including imprisonment for up to 20 years, if they were previously removed or excluded on certain grounds or if they previously committed specified crimes.

Section 1324 sets forth multiple offenses relating to the facilitation of improper alien entry. These offenses include (1) bringing or attempting to bring an alien to the United States, regardless of any future official action that may occur with respect to that alien, knowing or in reckless disregard of the fact that

an alien had not received prior authorization to come to, enter, or reside in the United States; (2) bringing or attempting to bring a person to the United States *between ports of entry* knowing that the person is an alien; and (3) encouraging or inducing an alien to come to or enter the United States, knowing or in reckless disregard of the fact that the alien's entry will be in violation of the law. These offenses typically constitute felonies and may sometimes carry lengthy prison terms, including enhanced penalties when the offense is performed for [commercial advantage or private financial gain](#). In a few instances, such as alien smuggling offenses resulting in serious harm to or the death of a person, the maximum available penalty may be life imprisonment or death.

Other criminal statutes relevant to the unauthorized entry of aliens include, among other offenses, high-speed flight from an immigration checkpoint ([18 U.S.C. § 758](#)), assisting in the unlawful entry of an alien known to be inadmissible on criminal or security-related grounds ([8 U.S.C. § 1327](#)), and importing aliens into the country for prostitution or “any other immoral purpose” ([8 U.S.C. § 1328](#)).

Offenses Concerning Unlawful Alien Presence

Although the Supreme Court has observed that, as a general rule, [unlawful presence](#) by an alien is not a crime, a number of statutes may criminalize unauthorized presence if additional factors are met. The most serious penalties attach to aliens who are unlawfully present in the United States in violation of an order of removal. Under [8 U.S.C. § 1253\(b\)](#), an alien who has been ordered removed and placed under supervised release pending removal is subject to imprisonment for up to one year if he or she willfully fails to comply with the terms of the release. Under [8 U.S.C. § 1253\(a\)](#), an alien ordered removed who willfully fails or refuses to depart from the United States, or “connives or conspires, or takes any other action” designed to prevent departure, may face a criminal fine and imprisonment for either up to four years or up to ten years, depending on the reason for the removal order.

As discussed earlier, under [8 U.S.C. § 1326](#), an alien who unlawfully reenters or attempts to reenter the country in violation of an order of removal is subject to felony penalty, with heightened penalties available in some circumstances. Section 1326 also provides that liability attaches if a covered alien is “at any time found in” the United States. This language is legally significant. The [federal statute of limitations](#) for most noncapital offenses runs for five years after the final element of the crime has been [completed](#), placing a time limit on when an offender can be prosecuted. The “found in” language in Section 1326 makes the illegal presence of an alien following reentry part of a [continuing offense](#). Regardless of how long ago the alien illegally reentered the country, [courts](#) have [held](#) that the [statute of limitation](#) for a Section 1326 prosecution begins only after federal authorities discover (or should have discovered with reasonable diligence) the alien's illegal presence.

The INA [requires](#) most aliens present in the United States for 30 days or more to apply for registration and fingerprinting with immigration authorities. Under [8 U.S.C. § 1306](#), failure to do so is a misdemeanor, and it is also a misdemeanor for a registered, lawfully admitted alien to fail to carry his or her registration documents or notify immigration authorities of a change of address. As discussed in another [CRS product](#), a number of factors, including the lack of registration forms applicable to certain categories of aliens (such as the unlawfully present), contributed to the limited enforcement of these criminal laws for many decades. In early 2025, President Trump issued an [executive order](#) that directed agencies to treat alien registration requirements “as a civil and criminal enforcement priority,” and a few months later the Department of Homeland Security published an [interim final rule](#) creating a new, general registration form to enable unregistered aliens to comply with registration requirements. While public data on alien registration prosecution trends are limited, available data [suggest](#) that it remains uncommon for an alien registration violation to be the most serious charge brought against a defendant in a criminal prosecution.

Federal law also criminalizes certain activities by persons seeking to facilitate aliens' unauthorized presence in the United States. Under 8 U.S.C. § 1324(a)(1)(A), it is a felony for a person to harbor an unlawfully present alien, transport the alien within the country in furtherance of his or her unlawful presence, or encourage or induce the alien to reside in the country. (The Supreme Court has interpreted the “encourage or induce” provision in Section 1324 to [reach only](#) “the purposeful solicitation and facilitation of specific acts known to violate federal law.”) Under 8 U.S.C. § 1324a(f)(1), employers who engage in a pattern or practice of hiring or employing aliens not authorized to work in the country may also be subject to misdemeanor penalties. Persons who control, employ, or harbor an alien for prostitution or “any other immoral purpose” may also face felony penalties under 8 U.S.C. § 1328.

Offenses Involving Immigration-Related Fraud

Criminal offenses also attach to a broad array of fraudulent, immigration-related activities. The primary criminal penalties concerning immigration and passport-related document fraud, forgery, and misuse are contained in [Chapter 75 of the U.S. Criminal Code](#). Offenses are generally punishable by fine and imprisonment for up to 10 years in the case of a first or second offense, with greater penalties available for aggravated circumstances. Other criminal statutes bar false claims of U.S. citizenship (18 U.S.C. § 911), along with acts of fraud relating to the procurement of citizenship (18 U.S.C. § 1425) or fraudulent activities related to alien registry (8 U.S.C. § 1306(c)-(d)). More generally, persons may face criminal charges if they make false claims under oath in any matter relating to citizenship, naturalization, or alien registry (18 U.S.C. § 1015). Persons who fail to disclose their role in the preparation of fraudulent applications for immigration benefits are subject to criminal sanctions in some circumstances (8 U.S.C. § 1324c(e)). Marriage-based immigration fraud is also subject to criminal sanction (8 U.S.C. § 1325(c)), as is establishing a commercial enterprise for the purposes of evading immigration laws (8 U.S.C. § 1325(d)).

In some cases, immigration-related fraud may be penalized under statutes of more general applicability, such as those making it a crime to knowingly and willfully make false statements in matters subject to federal jurisdiction (18 U.S.C. § 1001) or to engage in identification-document fraud (18 U.S.C. § 1028). Under 18 U.S.C. § 1028A, a mandatory two-year minimum sentence of imprisonment is added to a felony conviction if the offender used identification documents of another—including immigration-related documents—during the commission of certain other offenses.

Considerations for Congress

Federal criminal law is a creature of statute, and Congress may choose to modify the range of prohibited activities and associated penalties. Over the years, proposals to modify immigration criminal laws have ranged from legislative measures to [de-criminalize](#) some immigration violations (such as unlawful entry) and providing [humanitarian assistance-based](#) exceptions to certain crimes, to criminalizing a broader swathe of activities that undermine immigration rules (e.g., [criminalizing unlawful presence](#)) or, as is the case with House-passed [H.R. 3486](#) in the 119th Congress, heightening penalties for existing immigration offenses.

Congress may also consider whether to clarify the meaning of immigration-related offenses that have been interpreted [differently by federal appeals courts in different circuits](#), resulting in the non-uniform application of those statutes in different parts of the United States. For example, [some federal courts](#) of appeals have recognized that the crime of improper entry requires the accused to have entered or attempted to enter the country free from “official restraint” (i.e., surreptitiously). Not all courts have [adopted](#) this view, and there is a [circuit split](#) on the more specific question of whether an alien may be charged with improper entry if he or she crossed the U.S. border while under continuous surveillance from immigration authorities. Different federal appellate courts also take [different approaches](#) in assessing

the mental state required for criminal liability for harboring an unlawfully present alien under [8 U.S.C. § 1324](#).

As noted earlier, resource considerations can inform the criminal enforcement priorities of the executive branch. Under the [Operation Take Back America](#) initiative launched in 2025, the DOJ identified “stopping illegal immigration” as a “core enforcement priority,” and directed or encouraged existing agency and U.S. Attorney Office resources to be channeled towards the prosecution of immigration-related crimes. Congress can supplement or constrain these efforts through appropriations measures. Similar to Congress’s enactment of an [appropriations rider](#) that limited the Department of Justice from expending appropriated funds to prosecute conduct that was permitted under state medical marijuana laws, Congress could limit funding from being used to enforce certain immigration-related criminal statutes. Conversely, Congress could opt to provide greater resources for the enforcement of immigration-related crimes, including perhaps to the courts and prosecutorial offices in the [judicial districts](#) where immigration-related prosecutions are most likely to occur.

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