

CAPITAL AREA IMMIGRANTS’ RIGHTS (CAIR) COALITION  
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES  
 SECTION V – FIREARMS OFFENSES

OFFENSE	STATUTE	CRIME INVOLVING MORAL TURPITUDE (CIMT)?	AGGRAVATED FELONY?	OTHER GROUNDS OF DEPORTABILITY OR INADMISSIBILITY?	COMMENTS AND PRACTICE TIPS
Shooting, etc., in attempt or commission of a felony	18.2-53	Yes	Yes, under 8 U.S.C. § 1101(a)(43)(F) if sentence imposed is more than one year  Possibly, under 8 U.S.C. § 1101(a)(43)(E) <sup>1</sup>	Possibly under 8 U.S.C. § 1227(a)(2)(C) (firearms deportability ground) <sup>2</sup>	Keep sentence under one year  If allegations involve conduct not involving a firearm, create affirmative record that no firearm was involved in commission of offense to avoid firearm offense ground of

<sup>1</sup> A person can be convicted under Virginia Code § 18.2-53 for unlawfully shooting, stabbing, cutting or wounding another person in the commission or attempted commission of a felony. Only the act of shooting would arguably qualify as a firearms aggravated felony under 8 U.S.C. § 1101(a)(43)(E). See 18 U.S.C. § 844(h)(1); *U.S. v. Davis* 202 F.3d 212 (4th Cir. 2000) (discussing the definition of “explosive” under 18 U.S.C. § 844 and suggesting that “shooting” involves the use of an explosive because gunpowder is an explosive under the statute). As the statute criminalizes conduct (i.e. stabbing) that is not encompassed by § 1101(a)(43)(E), an immigration attorney could argue that it is overbroad and therefore categorically not an aggravated felony.

<sup>2</sup> A person can be convicted under Virginia Code § 18.2-53 for unlawfully shooting, stabbing, cutting or wounding another person in the commission or attempted commission of a felony. As the statute criminalizes conduct (i.e. stabbing) that does not involve firearms, an immigration attorney could argue that it is overbroad and therefore categorically not a firearms offense under 8 U.S.C. § 1227(a)(2)(C).

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					<p>deportability and firearms-related aggravated felony; otherwise do not emphasize specific weapon involved to preserve overbreadth arguments (see FNs 1 and 2)</p> <p>Consider alternative plea under 18.2-282 or 18.2-286 to decrease chance that offense will be considered a CIMT or aggravated felony (this will not necessarily avoid the firearms ground of deportability)</p>
Use or display of firearm in	18.2-53.1	Probably	Probably under 8 U.S.C. §	Probably a firearms offense <sup>4</sup>	Keep sentence under one year to avoid aggravated

<sup>4</sup> According to Virginia jury instruction 18.702, the definition of “firearm” for purposes of Virginia Code § 18.2-53.1 is “any instrument that is capable of expelling a projectile by force or gunpowder. A firearm is also an object that is not capable of expelling a projectile of force or gunpowder but gives the

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committing felony			1101(a)(43) (F), if sentence of one year or more is		felony  If type of firearm is not included in federal

appearance of being able to do so.” As a result, the definition encompasses weapons that are not firearms under 18 U.S.C. § 921(a) (which defines firearm as “any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.”) An immigration attorney could therefore argue that the Virginia statute is overbroad and categorically not a firearms offense. The BIA has held that a state firearms statute that was not a categorical match for the federal definition of a firearm was categorically overbroad because the state statute prohibited crimes involving “antique firearms.” But in this decision, the BIA noted that the statute will be categorically overbroad “only if the alien demonstrates [a realistic probability] that the State statute has, in fact, been successfully applied to prosecute offenses involving antique firearms.” *Matter of Chairez-Castrejon*, 26 I&N Dec. 349, 356 (BIA 2014). The BIA may take a similar “realistic probability” approach to other arguments that state statutes related to firearms are overbroad. Importantly, in the case of Virginia Code § 18.2-53.1, there are cases demonstrating that the Commonwealth has successfully prosecuted individuals for using firearms not included in the federal definition. *See, e.g., Holloman v. Commonwealth*, 221 Va. 196 (Va 1980) (spring-operated BB gun was “firearm” for purposes of statute creating separate and distinct felony for use of firearm in committing felony); *Courtney v. Commonwealth*, 281 Va. 363, 366-67 (2011) (finding man’s use of a toy gun during a robbery was sufficient for a finding that it was a “firearm” under the statute). Therefore, an immigration attorney would have strong grounds, even under the “realistic probability” standard articulated in *Chairez-Castrejon*, to argue that this statute is overbroad, though such an argument would likely be heavily contested by DHS in immigration court.

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			imposed  Possibly, under 8 U.S.C. § 1101(a)(43)(E) <sup>3</sup>		definition, emphasize that fact in record of conviction; otherwise, keep type of firearm outside the record of conviction  If applicable, keep reference to shooting firearm out of record of conviction  Consider alternative plea under 18.2-282 or 18.2-286 to decrease chance that offense will be considered a CIMT or aggravated felony (this will not necessarily

<sup>3</sup> A person can be convicted under Virginia Code § 18.2-53.1 for using, attempting to use, or displaying a pistol, shotgun, rifle or other firearm. Only the act of using the firearm would arguably qualify as a firearms aggravated felony under 8 U.S.C. § 1101(a)(43)(E). 18 U.S.C. § 844(h). As the statute criminalizes conduct (i.e. displaying a firearm) that is not encompassed by (E), an immigration attorney could argue that it is overbroad and therefore categorically not an aggravated felony.

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					avoid the firearms ground of deportability)
Reckless handling of firearms; reckless handling while hunting	18.2-56.1(A)	Probably not <sup>5</sup>	No	Probably a firearms offense	If type of firearm is not included in federal definition, emphasize that fact in record of conviction; otherwise, keep type of firearm outside the record
	18.2-56.1(A1)	Yes	No	Probably a firearms offense	
	18.2-56.1(D)	No	No	Probably a firearms offense	

<sup>5</sup> The BIA has held that in order for a statute with a reckless *mens rea* to constitute a CIMT, it “must be coupled with an offense involving the infliction of serious bodily injury.” *Matter of Fualaau*, 21 I&N Dec. 475, 478 (BIA 1996). Here, Va. Code 18.2-56.1 requires a reckless state of mind but allows for conviction as a result of any danger to “life, limb or property,” which is broader than infliction of serious bodily injury. Thus, it is probably not a CIMT.

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Allowing access to firearms by children	18.2-56.2(A)	Probably not (See FN 6 for explanation of statutes with reckless <i>mens rea</i> )	No	Probably (but possibly not) a firearms offense <sup>6</sup>	Plead to 18.2-56.2(A) rather than 18.2-56.2(B)  Make clear in record that defendant did not take any of the actions in 8 U.S.C. § 1227(a)(2)(C) to preserve overbreadth argument (FN 7)
	18.2-56.2(B)	Probably	No	Probably (but possibly not) a firearms offense (see FN 6)	If type of firearm is not included in federal definition, emphasize that fact in record of conviction; otherwise, keep type of firearm outside the record

<sup>6</sup> Virginia Code § 18.2-56.2(A) makes it unlawful for “any person to recklessly leave a loaded, unsecured firearm in such a manner as to endanger the life or limb of any child under the age of fourteen.” An immigration attorney could argue that this offense is not a firearms offense because recklessly leaving a firearm in a certain manner does not involve “purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying” a firearm or destructive device.” 8 U.S.C. § 1227(a)(2)(C). The statute is therefore arguably overbroad and categorically not a firearms offense.

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Shooting at or throwing missiles, etc., at train, car, vessel, etc.	18.2-154	Yes	Possibly, under 8 U.S.C. §1101(a)(43)(E) <sup>7</sup>  Yes, under 8 U.S.C. § 1101(a)(43)(F) if sentence of one year or more is imposed	Possibly a firearms offense if firearm used in commission of offense and matches the federal definition of firearm (see FN 6)	Keep sentence under one year  If applicable, create record that object used to commit offense was not a firearm or any other explosive device to maintain overbreadth argument; alternatively, if type of firearm is not

<sup>7</sup> An immigration practitioner could argue that Va. Code 18.2-154 is overbroad with respect to the aggravated felony ground at 8 U.S.C. § 1101(a)(43)(E), which is defined as including any offense “described in” 8 U.S.C. § 844(h), which provides that it is unlawful to use fire or an explosive (including shooting a firearm) to commit a felony which can be prosecuted in a court of the United States, or 8 U.S.C. § 844(i), which provides that it is unlawful to maliciously damage or destroy a building, vehicle, etc by use of fire or an explosive. While certain crimes under Va. Code 18.2-154 arguably match the crimes under 8 U.S.C. §§ 844(h) and (i), the term “missile” is not defined by Virginia code and could include a range of objects that go beyond those considered “explosives” under federal law. Thus, an immigration attorney could argue that the statute is overbroad and therefore not a categorical match to the aggravated felony definition under § 1101(a)(43)(E).

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					included in federal definition, emphasize that fact in record of conviction; otherwise, keep type of firearm outside the record (note that these tips may avoid the firearms ground of deportability and firearms-related aggravated felony ground, but not the crime of violence aggravated felony ground)
	18.2-154 (maliciously & resulting in death qualifying as murder)	Yes	Yes, under 8 U.S.C. § 1101(a)(43)(A)  Possibly, under 8 U.S.C. § 1101(a)(43)(E) (see FN 7)  Yes, under 8 U.S.C. § 1101(a)(43)(F) if sentence of one year or more is imposed	Possibly a firearms offense if firearm used in commission of offense and matches the federal definition of firearm (see FN 6)	If applicable, emphasize in record that offense was committed “unlawfully” but not maliciously, and did not result in death  Consider alternative plea under 18.2-282 or 18.2-286
	18.2-154	Probably not	Possibly, under 8	Possibly a firearms	

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	(unlawfully)		U.S.C. § 1101(a)(43)(E) (see FN 7)  Possibly, under (F) if sentence of one year or more is imposed	offense if firearm used in commission of offense and matches the federal definition of firearm (see FN 6)	to decrease chance that offense will be considered a CIMT or aggravated felony
	18.2-154 (unlawfully & resulting in	Probably not <sup>8</sup>	Possibly, under 8 U.S.C. § 1101(a)(43)(E)	Possibly a firearms offense if firearm used in commission	

<sup>8</sup> Immigration practitioners may argue that this offense, the commission of which renders a person guilty of involuntary manslaughter, is not a CIMT because it punishes conduct requiring a *mens rea* insufficient for a CIMT finding. In *Sotnikau v. Lynch*, No. 15-2073, 2017 WL 2709572 (4th Cir. Jan. 24, 2017) the Fourth Circuit held that Virginia involuntary manslaughter is categorically overbroad and therefore not a CIMT because it extends to punishing conduct committed through “criminal negligence,” which is a *mens rea* lower than specific intent or recklessness and therefore insufficient for a CIMT finding. The Fourth Circuit distinguished the VA involuntary manslaughter statute from the Missouri statute examined by the BIA in *Matter of Franklin*, 20 I&N Dec. 867 (BIA 1994). In *Matter of Franklin*, the BIA held that the Missouri involuntary manslaughter statute involved moral turpitude because it punished only the reckless causation of death. See 20 I&N Dec. 867 (BIA 1994). By contrast, the Virginia definition of involuntary manslaughter is founded in common law and includes a “reckless” or “indifferent disregard” standard, which does not require a conscious disregard of known risks.

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	death)		(see FN 7) Probably, under (F) if sentence of one year or more is imposed	of offense and matches the federal definition of firearm (see FN 6)	
Discharging firearms or missiles within or at a building or dwelling house	18.2-279 (maliciously)	Yes	Possibly under 8 U.S.C. § 1101(a)(43)(E) (see FN 7 with regard to the characterization of “missile”)  Yes, under (F) if sentence imposed is at least one year	Possibly a firearms offense if firearm used in commission of offense and matches the federal definition of firearm (see FN 6)	Keep sentence under one year  If applicable, create record that object used to commit offense was not a firearm or any other explosive device to maintain overbreadth argument (FN 7)  If applicable, emphasize in record that offense was committed “unlawfully” but not maliciously
	18.2-279 (maliciously &	Yes	Yes, under 8 U.S.C. §	Possibly a firearms offense if firearm	

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	resulting in death qualifying as murder)		1101(a)(43)(A) Possibly, under (E) (See FN 7) Yes, under (F) if sentence of one year or more is imposed	used in commission of offense and matches the federal definition of firearm (see FN 6)	If type of firearm is not included in federal definition, emphasize that fact in record of conviction; otherwise, keep type of firearm outside the record  Consider alternative plea under 18.2-282 or 18.2-286 to decrease chance that offense will be considered a CIMT or aggravated felony (this will not necessarily avoid the firearms ground of deportability)
	18.2-279 (unlawfully)	Probably not	Possibly, under 8 U.S.C. § 1101(a)(43)(E) (see FN 7)  Probably, under (F) if sentence of one year or more is imposed	Possibly a firearms offense if firearm used in commission of offense and matches the federal definition of firearm (see FN 6)	
	18.2-279 (unlawfully &	Probably (see FN 9)	Possibly, under 8 U.S.C. §	Possibly a firearms offense if firearm	

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	resulting in death qualifying as involuntary manslaughter)		1101(a)(43)(E) (see FN 7)  Probably, under (F) if sentence of one year or more is imposed	used in commission of offense and matches the federal definition of firearm (see FN 6)	
Willfully discharging firearms in public places	18.2-280	Probably	Possibly under 8 U.S.C. § 1101(a)(43)(E) <sup>9</sup>  Probably under (F) if sentenced imposed is more	Probably (but possibly not) a firearms offense (see FN 6)	Keep sentence under one year  If type of firearm is not included in federal definition, emphasize that fact in record of conviction; otherwise, keep type of

<sup>9</sup> An immigration practitioner would have a strong argument that this statute is divisible as to the aggravated felony definition set forth at 8 U.S.C. § 1101(a)(43)(E). Under that statute, certain instances of shooting a gun would arguably be considered aggravated felonies, *see* 18 U.S.C. § 844(h)(1), but Va. Code 18.2-280 criminalizes discharging a firearm in a very broad set of locations that arguably goes beyond that criminalized under federal law. Thus, an immigration practitioner could argue that the statute is categorically overbroad. Even so, an immigration court might decide to look to the record of conviction to determine whether the defendant’s specific conduct constitutes an aggravated felony under federal law.

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			than one year		<p>firearm outside the record</p> <p>To reduce risk of a CIMT and aggravated felony finding, create affirmative record that location in which firearm was discharged is not one in which there is a substantial risk of bodily injury</p> <p>To reduce risk of categorization as firearms aggravated felony, create affirmative record that building or property burned was not owned or leased to the U.S. or any department or agency thereof, or any institution or organization receiving federal financial</p>

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					<p>assistance.</p> <p>Consider alternative plea under 18.2-282 or 18.2-286 to decrease chance that offense will be considered a CIMT or aggravated felony (this will not necessarily avoid the firearms ground of deportability)</p>
Pointing, holding, or brandishing firearm, air or gas operated weapon or object similar in appearance	18.2-282	Probably not	No	Possibly a firearms offense if firearm used in commission of offense and matches the federal definition of firearm (see FNs 2 & 6)	If allegations involve conduct not involving a firearm, emphasize that in record to avoid firearm-related immigration consequences; otherwise keep type of weapon out of record to preserve overbreadth arguments

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Shooting in or across road or in street	18.2-286	Probably not	No	Possibly a firearms offense if firearm used in commission of offense and matches the federal definition of firearm (see FN 6)	If allegations involve conduct not involving a firearm, emphasize that in record to avoid firearm-related immigration consequences; otherwise keep type of weapon out of record to preserve overbreadth arguments
Shooting from vehicles so as to endanger persons	18.2-286.1	Yes	Yes, under 8 U.S.C. § 1101(a)(43) (F) if sentence imposed is at least one year  Possibly, under	Probably (but possibly not) a firearms offense (see FN 6)	Keep sentence under one year  If type of firearm is not included in federal definition, emphasize that fact in record of conviction; otherwise, keep type of

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			(E)		firearm outside the record  Consider alternative plea under 18.2-282 or 18.2-286 to decrease chance that offense will be considered a CIMT or aggravated felony (this will not necessarily avoid the firearms ground of deportability)
Carrying loaded firearms in	18.2-287.4	No	Possibly, under 8 U.S.C. § 1101(a)(43)(E) <sup>10</sup>	Yes, a firearms offense under 8 U.S.C. §	Create affirmative record that weapon involved in offense was not a “machinegun” under federal

<sup>10</sup> Under 8 U.S.C. § 1101(a)(43)(E), conduct “described in” certain federal statute constitutes an aggravated felony, and these federal offenses include possessing a machinegun. *See* 18 U.S.C. § 922(o). “Machinegun” encompasses any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.” 26 U.S.C. § 5845(b). This definition likely includes some of the weapons described in Va. Code 18.2-287.4 if the weapon shoots more than one shot, arguably making that offense an aggravated felony. An immigration practitioner would have a strong argument that the statute is overbroad, however, and therefore cannot support a charge in immigration court under §1101(a)(43)(E).

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OFFENSE	STATUTE	CRIME INVOLVING MORAL TURPITUDE (CIMT)?	AGGRAVATED FELONY?	OTHER GROUNDS OF DEPORTABILITY OR INADMISSIBILITY?	COMMENTS AND PRACTICE TIPS
public areas				1227(a)(2)(C)	law (see FN 10)  Consider alternative plea under 18.2-282 or 18.2-286 misdemeanor offenses to decrease chance that offense will be considered a CIMT or aggravated felony (this will not necessarily avoid the firearms ground of deportability)
Possession or use of “sawed-off” shotgun or rifle	18.2-300(A)	Probably	Probably, under 8 U.S.C. § 1101(a)(43)(F) if sentence imposed is at least one year	Yes, a firearms offense under 8 U.S.C. § 1227(a)(2)(C)	Plead to subsection (B) rather than (A). Or seek an alternative plea to 18.2-282 or 18.2-286 misdemeanor offenses to decrease chance that offense will be considered a CIMT or aggravated felony (this will not necessarily avoid the
	18.2-300(B)	No	No	Yes, a firearms offense under 8	not necessarily avoid the

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				U.S.C. § 1227(a)(2)(C)	firearms ground of deportability).
Carrying concealed weapon	18.2-308	No	No	Possibly a firearms offense if firearm used in commission of offense and matches the federal definition of firearm <sup>11</sup>	If allegations involve conduct not involving a firearm, emphasize that in record to avoid firearm-related immigration consequences; otherwise keep type of firearm outside record to preserve overbreadth arguments (see FN 11)

<sup>11</sup> An immigration practitioner would have a strong argument that this statute is overbroad with regard to the firearm ground of deportability under 8 U.S.C. § 1227(a)(2)(C) because it broadly criminalizes any weapon that propels a “missile” by means of an “explosion.” However, it is likely that an immigration court would view this as a divisible statute and, therefore, defense attorneys should take care to preserve immigration arguments in the record of conviction.

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Possession or transportation of certain firearms by	18.2-308.2:01(A)	Probably not	Possibly (but probably not) under 8 U.S.C. § 1101(a)(43)(C) <sup>12</sup>	Yes, firearms offense under 8 U.S.C. § 1227(a)(2)(C)	If applicable, create affirmative record that conduct involved mere possession with no intent to

<sup>12</sup> 8 U.S.C. § 1101(a)(43)(C) makes the “illicit trafficking in firearms” an aggravated felony. However, in order to constitute “trafficking” the offense must normally “require that the purchase and transportation or receipt of the weapon be accompanied by any intent to sell or otherwise distribute the firearm to another individual.” *Joseph v. Att’y Gen’l*, 465 F.3d 123, 129 (4th Cir. 2006). Va. Code 18.2-308:2:01, however, only criminalizes the “transporting” of firearms or the possession and concealed carry of a firearm and is therefore unlikely to be an aggravated felony under §1101(a)(43)(C).

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certain persons			Possibly, under E) <sup>13</sup>		transport or engage in commercial sale or purchase (FN 12)
	18.2-308.2:01(B)	Probably not	Possibly, but probably not, under 8 U.S.C. §1101(a)(43)(C) (See FN 12)  Possibly, under (E)	Probably (but possibly not) a firearms offense (see FN 6)	If applicable, create affirmative record that defendant was lawfully present in U.S. even if not a citizen or permanent resident (FN 13)  Create affirmative record that conduct did not affect interstate or foreign commerce and firearm

<sup>13</sup> A conviction under Virginia Code § 18.2-308.2:01 requires that the defendant be a non-citizen or non-lawful permanent resident who has concealed on his person, possessed, or transported a firearm. The firearm aggravated felony ground at 8 U.S.C. § 1101(a)(43)(E), however, makes it an aggravated felony for any person who is an alien, who is either illegally or unlawfully in the U.S., or has been admitted under a nonimmigrant visa, to possess, transport or receive any firearm or ammunition. A person who is not a citizen or a lawful permanent resident but lawfully present in the United States (i.e. a person with valid Temporary Protected Status) could therefore be convicted under Virginia Code § 18.2-308.2:01 but such an individual could not be convicted under the federal aggravated felony ground as he or she would not be illegally or unlawfully in the U.S. An immigration attorney could argue that the statute is overbroad and therefore categorically not an aggravated felony under § 1101(a)(43)(E).

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					<p>possessed was not shipped or transported in or affecting foreign or interstate commerce, to avoid firearms aggravated felony ground</p> <p>Consider alternate plea to 18.2-287.4 to minimize CIMT and aggravated felony risk (although note that such a plea will not avoid firearms ground of deportability)</p>
Sale, etc., of firearms to certain	18.2-308.2:1	Probably	Possibly, under 8 U.S.C. § 1101(a)(43)(C) <sup>14</sup>	Probably (but possibly not) a firearms offense	If type of firearm is not included in federal definition, emphasize that

<sup>14</sup> 8 U.S.C. § 1101(a)(43)(C) makes the “illicit trafficking in firearms” an aggravated felony. Va. Code 18.2-308.2:1 criminalizes the selling or bartering of firearms, which could arguably be considered “trafficking,” but also the “giving” or “furnishing” of

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persons				(see FN 6)	fact in record of conviction; otherwise, keep type of firearm outside the record  Create affirmative record that offense involved giving or furnishing firearms as opposed to selling or bartering firearms to avoid aggravated felony under 8 U.S.C. § 1101(a)(43)(C) (FN 14)

firearms, which is unlikely to be considered trafficking. Thus, an immigration attorney would have a strong argument that this statute is categorically overbroad and cannot constitute an aggravated felony under §1101(a)(43)(C).

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Possession of firearms while in possession of certain substances	18.2-308.4	Probably <sup>15</sup>	Possibly, under 8 U.S.C. §1101(a)(43)(E)	Probably (but possibly not) a firearms offense (see FN 6)  Probably a crime related to a controlled substance, 8 U.S.C. § 1227(a)(2)(B) <sup>16</sup>	If type of firearm is not included in federal definition, emphasize that fact in record of conviction; otherwise, keep type of firearm out of the record  Keep references to particular controlled substance(s) out of the

<sup>15</sup> Many simple possession offenses do not constitute crimes involving moral turpitude because they contain no *mens rea* element. *Matter of Abreu-Semino*, 12 I&N Dec. 775 (BIA 1968). However, this statute creates a separate offense for a person who possesses a controlled substance while “simultaneously, with knowledge and intent” possessing a firearm, and may therefore be considered a CIMT. *See, e.g., Matter of Khourn*, 21 I&N Dec. 1041 (BIA 1997).

<sup>16</sup> An immigration attorney could argue that the Virginia statute is overbroad compared to the controlled substance removability ground because it criminalizes offenses involving possession of controlled substances in the Virginia Schedules I and II that are not included in the federal drug schedules found at 21 U.S.C. § 802 and, therefore, cannot trigger immigration consequences. *See Mellouli v. Lynch*, 135 S. Ct. 1980 (2015); *Descamps v. United States*, 133 S. Ct. 2276 (2013). For example, salvia and numerous other substances are included in the Virginia drug schedules and not in the federal drug schedules. However, there is no binding decision on the overbreadth of the Virginia controlled substance schedules and such an argument is relatively untested and presents many legal hurdles. These include needing to prove that there is a “realistic probability” that the state government prosecutes people based on controlled substances that are not included on the federal schedules. *See Matter of Mendoza Osorio*, 26 I&N Dec. 703 (BIA

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					record of conviction. However, if controlled substance that serves as the basis of conviction is not in the federal drug schedules, emphasize that fact in the record

2016); *Matter of Ferreira*, 26 I. & N. Dec. 415 (BIA 2014). See Practice Tips for ways to preserve relevant defenses for your non-citizen client. For more practice tips regarding immigration consequences of Virginia drug offenses, see the CAIR Coalition practice advisory on this issue at <http://www.caircoalition.org/wp-content/uploads/2015/07/GSA-Practice-Advisory-Final-20150720.pdf>.

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