

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

OFFENSE	STATUTE	CRIME INVOLVING MORAL TURPITUDE (CIMT)?	AGGRAVATED FELONY?	OTHER GROUNDS OF DEPORTABILITY OR INADMISSIBILITY? ¹	COMMENTS AND PRACTICE TIPS
Prostitution, commercial sexual conduct, commercial exploitation of a minor	18.2-346	Yes	Possibly, under 8 U.S.C. § 1101(a)(43)(K)(i) if the offense relates to “owning, controlling, managing, or supervising a prostitution business” or (K)(ii) if relating to transporting persons for the	Probably, under the prostitution and commercialized vice grounds of inadmissibility at 8 U.S.C. § 1182(D) Possibly, as a crime of child abuse under 8 U.S.C. § 1227(a)(2)(E)(i) if prostitution solicited from a minor	Consider alternative pleas to 18.2-415 (disorderly conduct) or 18.2-427 (use of profane language or making obscene proposal) to avoid the CIMT, prostitution-related, and crime of child abuse -related grounds of removal To avoid sexual abuse of a minor aggravated felony, ensure that age of solicited individual is left out of the record of conviction; if crime is of solicitation, seek conviction under 18.2-346(B), not (B)(i) or (B)(ii).

¹ Including, but not limited to: controlled substance offense, prostitution offense, commercialized vice offense, firearm offense, crimes of domestic violence, crimes of stalking, and crimes against children.

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

			<p>purpose of prostitution to obtain commercial advantage;</p> <p>Possibly, under "sexual abuse of a minor" grounds at U.S.C. § 1101(a)(43)(A) if convicted under 18.2-346(B)(i) or (B)(ii)</p>		
Keeping, residing in, or frequenting a bawdy house	18.2-347	Yes	Probably, under 8 U.S.C. § 1101(a)(43)(K)(i) if the offense relates to "owning, controlling,	Probably, under the prostitution and commercialized vice grounds of inadmissibility at 8 U.S.C. § 1182(D) Possibly, as a crime of	Consider alternative pleas to 18.2-415 (disorderly conduct) or 18.2-427 (use of profane language or making obscene proposal) to avoid the CIMT, prostitution-related, and crime of child abuse -related grounds of removal

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

			managing, or supervising a prostitution business” or (K)(ii) if relating to transporting persons for the purpose of prostitution to obtain commercial advantage	child abuse under 8 U.S.C. § 1227(a)(2)(E)(i) if prostitution solicited from a minor	
Aiding in Prostitution	18.2-348	Yes	Probably, under 8 U.S.C. § 1101(a)(43)(K)(i) if the offense relates to “owning, controlling, managing, or supervising a prostitution business” or	Probably, under the prostitution and commercialized vice grounds of inadmissibility at 8 U.S.C. § 1182(D) Possibly, as a crime of child abuse under 8 U.S.C. § 1227(a)(2)(E)(i) if prostitution solicited	Consider alternative pleas to 18.2-415 (disorderly conduct) or 18.2-427 (use of profane language or making obscene proposal) to avoid the CIMT, prostitution-related, and crime of child abuse -related grounds of removal

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

			(K)(ii) if relating to transporting persons for the purpose of prostitution to obtain commercial advantage Possibly, under "sexual abuse of a minor" grounds at U.S.C. § 1101(a)(43)(A) if convicted under 18.2-348 with reference to 18.2-361(B)	from a minor	
Trafficking or taking a person to become a	18.2-355	Yes	Probably, under 8 U.S.C. § 1101(a)(43)(K)(i) if the offense relates to	Probably, under the prostitution and commercialized vice grounds of inadmissibility at 8	Consider alternative pleas to 18.2-415 (disorderly conduct) or 18.2-427 (use of profane language or making obscene proposal) to avoid the CIMT, prostitution-related, and

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

prostitute			<p>“owning, controlling, managing, or supervising a prostitution business” or (K)(ii) if relating to transporting persons for the purpose of prostitution to obtain commercial advantage</p> <p>Possibly, under “sexual abuse of a minor” grounds at U.S.C. § 1101(a)(43)(A) if convicted under 18.2-355(3)</p>	<p>U.S.C. § 1182(D)</p> <p>Possibly, as a crime of child abuse under 8 U.S.C. § 1227(a)(2)(E)(i) if prostitution solicited from a minor</p>	<p>crime of child abuse -related grounds of removal</p>
------------	--	--	---	---	---

Commented [AA1]: Mentions parents implying potential involvement of kids - Thoughts?

(3) Being parent, guardian, legal custodian or one standing in loco parentis of a person, consents to such person being taken or detained by any person for the purpose of prostitution or unlawful sexual intercourse; or

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

Receive money to place a prostitute or trafficking	18.2-356	Yes	Probably, under 8 U.S.C. § 1101(a)(43)(K)(i) if the offense relates to “owning, controlling, managing, or supervising a prostitution business” or (K)(ii) if relating to transporting persons for the purpose of prostitution to obtain commercial advantage Possibly, under “sexual abuse of a minor” grounds at	Probably, under the prostitution and commercialized vice grounds of inadmissibility at 8 U.S.C. § 1182(D) Possibly, as a crime of child abuse under 8 U.S.C. § 1227(a)(2)(E)(i) if prostitution solicited from a minor	Consider alternative pleas to 18.2-415 (disorderly conduct) or 18.2-427 (use of profane language or making obscene proposal) to avoid the CIMT, prostitution-related, and crime of child abuse -related grounds of removal
--	----------	-----	--	---	--

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

			U.S.C. § 1101(a)(43)(A) if convicted under 18.2-356(i); Yes if convicted under 18.2-356(ii)		
Receive money from earnings of prostitute	18.2-357	Yes	Probably, under 8 U.S.C. § 1101(a)(43)(K)(i) if the offense relates to “owning, controlling, managing, or supervising a prostitution business” or (K)(ii) if relating to transporting persons for the purpose of prostitution to	Probably, under the prostitution and commercialized vice grounds of inadmissibility at 8 U.S.C. § 1182(D) Possibly, as a crime of child abuse under 8 U.S.C. § 1227(a)(2)(E)(i) if prostitution solicited from a minor	Consider alternative pleas to 18.2-415 (disorderly conduct) or 18.2-427 (use of profane language or making obscene proposal) to avoid the CIMT, prostitution-related, and crime of child abuse -related grounds of removal

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

			obtain commercial advantage		
Commercial sex trafficking	18.2-357.1	Yes	Probably, under 8 U.S.C. § 1101(a)(43)(K)(i) if the offense relates to “owning, controlling, managing, or supervising a prostitution business” or (K)(ii) if relating to transporting persons for the purpose of prostitution to obtain commercial advantage	Probably, under the prostitution and commercialized vice grounds of inadmissibility at 8 U.S.C. § 1182(D) Possibly, as a crime of child abuse under 8 U.S.C. § 1227(a)(2)(E)(i) if prostitution solicited from a minor	Consider alternative pleas to 18.2-415 (disorderly conduct) or 18.2-427 (use of profane language or making obscene proposal) to avoid the CIMT, prostitution-related, and crime of child abuse grounds of removal

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

Taking indecent liberties with children	18.2-370	Yes	Yes, under the "sexual abuse of a minor" grounds at 8 U.S.C. § 1101(a)(43)(A) ²	Probably a crime of child abuse under 8 U.S.C. § 1227(a)(2)(E) ³	Seek alternative plea to simple assault 18.2-57; if this is not possible consider an alternative plea to 18.2-371(i) contributing to the delinquency of a minor and specify subsection (i) in the record – note that this will likely avoid the CIMT and aggravated felony grounds but
---	----------	-----	--	---	--

² The Fourth Circuit Court of Appeals determined this offense to constitute a sexual abuse of a minor aggravated felony in an unpublished decision in 2008, *Waffi v. Mukasey*, 285 Fed. Appx. 26 (4th Cir. 2008). Generally, the Fourth Circuit has defined "sexual abuse of a minor" in the sentencing context as "physical or non-physical misuse or maltreatment of a minor for a purpose associated with sexual gratification." *U.S. v. Diaz-Ibarra*, 522 F.3d 343, 352 (4th Cir. 2008); *U.S. v. Cabrera-Umanzor*, 728 F.3d 347, 352 (4th Cir. 2013).

³ The "crime of child abuse" ground of deportability at 8 U.S.C. § 1227(a)(2)(E)(i) has been defined broadly by the Board of Immigration Appeals, requiring the elements of a knowing mental state, coupled with an act or acts of creating a likelihood of harm to a child. *See Matter of Mendoza-Osoria*, 16 I&N Dec. 703(BIA 2016); see also *Matter of Velasquez-Herrera*, 24 I. & N. Dec. 503 (BIA 2008) (defining crime of child abuse as "any offense involving an intentional, knowing, reckless, or criminally negligent act or omission that constitutes maltreatment of a child or that impairs a child's physical or mental well-being, including sexual abuse or exploitation.")

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

					may not avoid the crime of child abuse grounds of deportability (see FN 3)
--	--	--	--	--	--

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

Contributing to delinquency of a minor	18.2-371	No if convicted under subsection (i); possibly if convicted under subsection (ii) ⁴	No ⁵	Probably a crime of child abuse under 8 U.S.C. 1227(a)(2)(E)(i) (see FN 3)	Plead to subsection (i) rather than (ii) and ensure that the record of conviction demonstrates as much; note that this will likely avoid the CIMT and aggravated felony grounds but may not avoid the crime of child abuse grounds of deportability (see FN 3)
--	----------	--	-----------------	--	--

⁴ See *Prudencio v. Holder*, 669 F.3d 472 (4th Cir. 2012) (determining the first subsection to include conduct that is not turpitudinous but finding the second subsection to be categorically a CIMT, and looking to the record of conviction to determine under which subsection the respondent was convicted).

⁵ Subsection (ii) of 18.2-371 criminalizes consensual sex acts performed by a person 18 years or older with a person 15 years or older. This provision encompasses offenses colloquially referred to as “statutory rape.” Looking at a similar statutory rape statute in California, the U.S. Supreme Court found that, because the least of the acts criminalized under the statute would be consensual sex between a victim almost 18 and a perpetrator just turned 21, the statute was categorically overbroad and did not constitute a sexual abuse of a minor aggravated felony under 8 U.S.C. § 1101(a)(43)(A). *Esquivel-Quintana v. Sessions*, 137 S. Ct. 1562 (2017). In the case of subsection (ii) of 18.2-371, the least of the acts criminalized by the statute would be consensual sex between a victim of 17 years of age and a perpetrator of 18 years of age. Therefore, under the logic of *Esquivel-Quintana*, 18.2-371 is categorically not a sexual abuse of a minor aggravated felony.

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

Abuse and neglect of children; penalty; abandoned infant	18.2-371.1(A)	Probably not ⁶	Possibly, under 8 U.S.C. § 1101(a)(43)(F) if sentence imposed is at least one year ⁷ Maybe, under 8 U.S.C. § 1101(a)(43)(A) if offense involved sexual	Yes, crime related to child abuse ground of deportability at 8 U.S.C. § 1227(a)(2)(E) (see FN 3)	Seek alternative plea to simple assault 18.2-57; if this is not possible consider an alternative plea to 18.2-371(i) contributing to the delinquency of a minor, and specify subsection (i) in the record – note that this will likely avoid the CIMT and aggravated felony grounds but may not avoid the crime of child abuse grounds of deportability (see FN 3)
--	---------------	---------------------------	--	--	--

⁶ An immigration practitioner would have a strong argument that this offense is not a CIMT because it includes omissions and negligence. Generally, offenses involving negligence, strict liability, general intent, or intent to break the law are not CIMTs. *See Matter of Ortega-Lopez*, 26 I&N Dec. 99, 100 (BIA 2013). Furthermore, in *Somikau v. Lynch*, 846 F.3d 741 (4th Cir. 2017) the Fourth Circuit held that the Virginia involuntary manslaughter statute was categorically overbroad and therefore not a CIMT when it extended 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 same argument could be applied to 18.2-371.1(A).

⁷ An immigration practitioner would have a strong argument that this offense does not constitute a crime of violence aggravated felony under 8 U.S.C. 1101(a)(43)(F) because the offense may be committed without the use of “force” as defined for the purposes of 18 U.S.C. § 16, for example through a refusal to act or a reckless disregard for a child’s life. Accordingly, an immigration practitioner can argue that the statute is categorically overbroad as to the crime of violence aggravated felony. Furthermore, there is an argument not yet addressed by the Fourth Circuit Court of Appeals that the risk-based element of 18 U.S.C. § 16 is unconstitutional. This is because, as three Circuit Courts of Appeals have found, *Johnson v. United States*, 135 S.Ct. 2551 (2015), a case in which the Supreme Court held the Armed Criminal Career Act (“ACCA”) residual clause – a federal statute almost identical to 18 U.S.C. § 16(b) -- is unconstitutionally void for vagueness, compels the conclusion that 18 U.S.C. § 16(b) is also unconstitutionally void for vagueness. *See United States v. Gregorio Gonzalez-Longoria*, 813 F.3d 225 (5th Cir. 2015); *United States v. Vivas-Ceja*, 808 F.3d 719 (7th Cir. 2015); *Dimaya v. Lynch*, 803 F.3d 1110 (9th Cir. 2015).

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

			abuse		
	18.2-371.1(B)	Yes	Possibly, under 8 U.S.C. § 1101(a)(43)(F) if sentence imposed is at least one year (see FN 7) Maybe, under 8 U.S.C. § 1101(a)(43)(A) if offense involved sexual abuse	Yes, crime related to child abuse ground of deportability at 8 U.S.C. § 1227(a)(2)(E) (See FN 3)	
Production, publication, sale, financing, etc., of child	18.2-374.1	Yes	Maybe, under 8 U.S.C. § 1101(a)(43)(A) if offense involved sexual	Crime related to child abuse ground of deportability at 8 U.S.C. § 1227(a)(2)(E) (see FN 3)	To preserve an argument that the offense is not a sexual abuse of a minor aggravated felony, make affirmative record of no sexual abuse against child

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

pornography			abuse		
Possession, reproduction, distribution, solicitation, and facilitation of child pornography	18.2-374.1:1	Yes	Maybe, under 8 U.S.C. § 1101(a)(43)(A) if offense involved sexual abuse	Crime related to child abuse ground of deportability at 8 U.S.C. § 1227(a)(2)(E) (see FN 3)	To preserve an argument that the offense is not a sexual abuse of a minor aggravated felony, make affirmative record of no sexual abuse against child
Use of communications systems to facilitate certain	18.2-374.3	Yes	Maybe, under 8 U.S.C. § 1101(a)(43)(A) if offense involved sexual	Crime related to child abuse ground of deportability at 8 U.S.C. § 1227(a)(2)(E) (see FN 3)	To preserve an argument that the offense is not a sexual abuse of a minor aggravated felony, make affirmative record of no sexual abuse against child

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

offenses involving children			abuse		
Indecent exposure	18.2-387	Possibly ⁸	Maybe, under 8 U.S.C. § 1101(a)(43)(A) if offense involved sexual abuse of a minor	Crime related to child abuse ground of deportability at 8 U.S.C. § 1227(a)(2)(E) if it involved a minor	Keep any reference of age to offended party out of the record to avoid child abuse aggravated felony
Obscene sexual display	18.2-387.1	Yes (see FN 8)	Maybe, under 8 U.S.C. § 1101(a)(43)(A) if offense involved sexual		Consider alternative pleas to 18.2-415 (disorderly conduct) or 18.2-427 (use of profane language or making obscene proposal) to avoid the CIMT grounds of removal

⁸ In *Matter of Cortes Medina*, the BIA found that a statute punishing deliberate obscene display required an element of “lewd intent” in order to be a CIMT, meaning exposure “for purposes of sexual arousal, gratification, or affront.” 26 I&N Dec. 79, 85 (BIA 2013). According to the BIA, this requirement excludes as overbroad statutes that punish mere nudity, for example, or childish insults like mooning. Virginia’s indecent exposure statute does not, on the face of the statute, require a “lewd intent.” However, it does require an “obscene display or exposure,” and in order for something to be found “obscene” the evidence must show a related “prurient interest in sex.” See *Hart v. Commonwealth*, 441 S.E.2d 706, 709 (Va. Ct. App. 1994). An immigration practitioner could try to argue that the circumstances in which the Commonwealth has convicted people under Va. Code 18.2-387 go beyond “lewd intent,” as Virginia case law shows that there has been a successful conviction under the statute where the perpetrator purposefully exposed his G-string swim suit to an office supply store worker, even though his genitals were covered. See *Id.*

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.

CAPITAL AREA IMMIGRANTS' RIGHTS (CAIR) COALITION
 IMMIGRATION CONSEQUENCES OF COMMON VIRGINIA OFFENSES
 SECTION VIII – CRIMES INVOLVING MORALS AND DECENCY

			abuse of a minor		To preserve an argument that the offense is not an aggravated felony under 8 U.S.C. § 1101(a)(43)(A), make affirmative record that offense did not involve sexual abuse and that no minors were present
Profane swearing or intoxication in public	18.2-388	No	No	No	

This chart only analyzes whether convictions may fall within the primary categories of removability set forth in the Immigration and Nationality Act. Defenders should remember that it is also important to analyze whether a conviction leads to other immigration consequences, such as ineligibility for certain forms of relief from removal, Temporary Protected Status, naturalization, or Deferred Action for Childhood Arrivals. Please review the Cover Memorandum and relevant Practice Advisories on our website.