

# Immigration Consequences of Selected Michigan Offenses Reference Chart

Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
October 2019

*DISCLAIMER: This document is meant for **criminal defense attorneys ONLY** and is not intended for use by immigration practitioners, government attorneys, or Immigration Judges. The analysis of offenses is deliberately conservative, because criminal defense practitioners must be conservative in their immigration advice to their noncitizen clients. For some offenses, viable arguments exist to contest removability in immigration proceedings that are contrary to our analysis, but it is beyond the scope and purpose of this chart. Immigration counsel should rarely, and probably never, concede a criminal ground of removability and should always research potential defenses. In order to protect defendants to the fullest extent, the most conservative analysis is required.*

*Furthermore, this chart analyzes individual offenses in a vacuum. The actual impact of an offense will vary dramatically depending on the client's immigration status, prior criminal record, and other pending charges. Because immigration consequences of crimes is a complex and ever-evolving area of law, practitioners should use this chart as a starting point. These documents are not a substitute for legal research or obtaining immigration counsel for your client.*

## **HOW TO USE THIS CHART:**

For each criminal offense listed, the chart is divided into three categories: aggravated felony, crime involving moral turpitude (CIMT) and other grounds of inadmissibility or deportability. The chart then indicates the likelihood that an offense would be deemed to be an aggravated felony, CIMT, and/or some other specified crime-related ground of inadmissibility or deportability under immigration law.

To clarify the likelihood of an offense being an aggravated felony, CIMT or other ground, we will use the terminology as defined below:

1. **YES**—The immigration statute and/or case law clearly deem this offense to constitute an aggravated felony, CIMT and/or any additional grounds identified under column 5 and notes.

## Immigration Consequences of Selected Michigan Offenses Reference Chart

Provided by SBM’s Immigration Law Section & American Immigration Lawyers Association  
October 2019

2. **LIKELY**—The immigration statute and/or case law may not be directly on point or clearly indicate that this offense is an aggravated felony, CIMT, etc. However, analyzed in the context of relevant immigration case law, the offense is likely to be deemed as such by immigration officials and/or the immigration courts.
  
3. **POSSIBLE**—The immigration statute and/or case law are unclear as to whether this offense would constitute an aggravated felony, CIMT, etc., and there are unresolved legal issues both for and against such classification. Such a finding may be avoidable, depending upon such factors as how defense counsel structures a plea agreement, or under which particular prong of the offense defendant is convicted.
  
4. **UNLIKELY**—The immigration statute and/or case law may not be directly on point or clearly indicate that this offense is *not* an aggravated felony, CIMT, etc. However, analyzed in the context of relevant immigration case law, the offense is not likely to be deemed as such by immigration officials and/or immigration courts.

OFFENSE	STATUTE	CIMT	AGGRAVATED FELONY?	OTHER GROUNDS OF DEPORTABILITY OR INADMISSIBILITY?	NOTES & REFERENCE
Accessory After the Fact	750.505	Likely, if the underlying offense is a CIMT	Likely, if sentence is at least 1 year	Can trigger other removal grounds depending on the underlying crime	<i>Matter of Rivens</i> , 25 I&N Dec. 623 (BIA 2011); <i>Matter of Valenzuela Gallardo</i> , 27 I&N Dec. 449 (BIA 2018).
Aiding & Abetting	767.39	Likely, if the underlying offense is a CIMT	Likely, if the underlying offense is an aggravated felony & sentence is at least 1 year	Can trigger other removal grounds depending on the underlying crime	Jesus Ramon Garcia-Campos, 2018 WL 4611499 (BIA July 27, 2018) (unpublished); <i>Matter of Juan Delgado</i> , 27 I&N Dec. 100 (BIA 2017).

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Arson	750.72-.76	Likely	Likely, if described in 8 USC 1101(a)(43)(E)/18 USC 844(d)-(i), OR if crime of violence under 18 USC 16(a) and sentence is at least 1 year		<i>Matter of S</i> , 31 I&N Dec. 617 (BIA 1949); <i>In re Shanta Dargbeh</i> , 2017 WL 4418334 (BIA Jul. 21, 2017) (unpublished); pending decision on remand in <i>Rosa Pena v. Sessions</i> , 882 F.3d 284 (1st Cir. 2018) which may affect the CIMT analysis.
Assault & Battery (Simple)	750.81(1)	Unlikely	Unlikely, but avoid a sentence of 1 year or more	If crime of violence, could be crime of domestic violence if victim is a protected person under 8 USC 1227(a)(2)(E)(i)	<i>Maurilio Flores Ventura</i> , 2018 WL 3416233 (BIA May 24, 2018) (unpublished); <i>Matter of Julio Cesar Ahortalejo-Guzman</i> , 25 I&N Dec. 465 (BIA 2011).
Domestic Assault	750.81(2), (4), (5)	Unlikely	Unlikely, but avoid a sentence of 1 year or more	If crime of violence, could be crime of domestic violence if victim is a protected person under 8 USC 1227(a)(2)(E)(i)	S-S-P, AXXX XXX 854 (BIA Aug. 4, 2017) (unpublished); <i>Shuti v. Lynch</i> , 828 F.3d 440 (6th Cir. 2016).
Assault (Aggravated)	750.81a(1)	Unlikely	Likely if sentence of 1 year or more.	If crime of violence, could be crime of domestic violence if victim is a protected	<i>Hernandez v. Whitaker</i> , 914 F.3d 430 (6th Cir. 2019); <i>US v. Harris</i> , 853 F.3d 318 (6th Cir.

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

				person under 8 USC 1227(a)(2)(E)(i)	2017); <i>US v. Burris</i> , 912 F.3d 386 (6th Cir. 2019).
Felonious Assault (Assault with a Dangerous Weapon)	750.82	Unlikely	Likely if sentence of 1 year or more.	Unlikely to trigger removability as firearms offense under 8 USC 1227(a)(2)(C) because statute not divisible as to type of weapon; if crime of violence, could be crime of domestic violence if victim is a protected person under 8 USC 1227(a)(2)(E)(i)	<i>Hernandez v. Whitaker</i> , 914 F.3d 430 (6th Cir. 2019); <i>US v. Harris</i> , 853 F.3d 318 (6th Cir. 2017).
Assault with Intent to Murder	750.83	Likely	Likely if sentence of 1 year or more.	If crime of violence, could be crime of domestic violence if victim is a protected person under 8 USC 1227(a)(2)(E)(i)	
Assault with Intent to do Great Bodily Harm Less than Murder	750.84	Likely	Likely if sentence of 1 year or more.	If crime of violence, could be crime of domestic violence if victim is a protected	<i>In re Sanudo</i> , 23 I&N Dec. 968 (BIA 2006); <i>Hassan Ibrahim Bazzi</i> , 2007 WL 1125702 (BIA Feb. 23 2007)(unpublished);

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

				person under 8 USC 1227(a)(2)(E)(i)	<i>Matter of Kwan Ho Kim</i> , 26 I&N Dec. 912 (BIA 2017).
Assault with Intent to Commit a Felony	750.87	Likely, if intended felony is a CIMT	Likely if sentence of 1 year or more.		
Assault with Intent to Rob and Steal; Unarmed	750.88	Likely	Likely if sentence of 1 year or more.		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016).
Assault with Intent to Murder	750.83	Likely	Likely if sentence of 1 year or more.	If crime of violence, could be crime of domestic violence	
Assault with Intent to do Great Bodily Harm Less than Murder	750.84	Likely	Likely if sentence of 1 year or more.	If crime of violence, could be crime of domestic violence	<i>In re Sanudo</i> , 23 I&N Dec. 968 (BIA 2006); Hassan Ibrahim Bazzi, 2007 WL 1125702 (BIA Feb. 23 2007)(unpublished); <i>Matter of Kwan Ho Kim</i> , 26 I&N Dec. 912 (BIA 2017).
Assault with Intent to Rob and Steal; Armed	750.89	Likely	Likely if sentence of 1 year or more.	Unlikely to trigger removability as firearms offense under 8 USC 1227(a)(2)(C) because statute not divisible as to the type of weapon.	<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016); <i>US v. Harris</i> , 853 F.3d 318 (6th Cir. 2017).

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Assaulting, Resisting or Obstructing a Police Officer or Person Performing Duties	750.81d(1)	Unlikely	Unlikely, but avoid a sentence of 1 year or more.		Ronal Antonio Dominguez, 2017 WL 6555134 (BIA Oct. 3, 2017) (unpublished).
Leaving the Scene of an Accident	257.618	Unlikely	Unlikely		
Attempt (Generally)	750.92	Likely, if underlying offense is a CIMT	Likely, if underlying offense is an aggravated felony	Depends on underlying offense	
Carjacking	750.529a	Likely	Likely, if sentence is at least 1 year		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016).
Carrying a Concealed Weapon (Dangerous Weapon)	750.227(1)	Unlikely	Unlikely		Cadren Everaldd Todd, 2006 WL 3485847 (BIA Oct. 26, 2006) (unpublished).
Carrying a Concealed Weapon (Pistol)	750.227(2)	Unlikely	Unlikely	Firearms offense, 8 USC 1227(a)(2)(C)	Cadren Everaldd Todd, 2006 WL 3485847 (BIA Oct. 26, 2006) (unpublished).

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Carrying a Dangerous Weapon with Unlawful Intent	750.226	Likely	Unlikely, but avoid a sentence of 1 year	If record of conviction identifies weapon as a firearm, could trigger removability under 8 USC 1227(a)(2)(C)	Cadren Everaldd Todd, 2006 WL 3485847 (BIA Oct. 26, 2006) (unpublished).
Child Abuse (1st degree)	750.136b(2)	Likely	Possibly	Crime of child abuse, 8 USC 1227(a)(2)(E)(i)	<i>Matter of Velazquez-Herrera</i> , 24 I&N Dec. 503 (BIA 2008).
Child Abuse (2 <sup>nd</sup> , 3 <sup>rd</sup> and 4 <sup>th</sup> degree)	750.136b(3), (5), and (7)	Possibly	Unlikely	Crime of child abuse, 8 USC 1227(a)(2)(E)(i)	
Conspiracy (Generally)	750.157a	Likely, if underlying offense is a CIMT	Likely, if underlying offense is an aggravated felony	Depends on underlying offense	<i>Matter of Short</i> , 20 I&N Dec. 136 (BIA 1989).
Controlled Substance Obtained by Fraud	333.7407	Yes	Potentially	Could trigger controlled substance grounds	
Criminal Sexual Conduct	750.520b-.520e	Likely	Probably as crime of violence, rape, or sexual abuse of a minor depending on the specific subsection		<i>Esquivel-Quintana v. Sessions</i> , 137 S.Ct. 1562 (2017); <i>Matter of Keeley</i> , 27 I&N Dec. 146 (BIA 2017); <i>Keeley v. Whitaker</i> , 910 F.3d 878 (6th Cir. 2018)

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Drug House, Keeping	333.7405	Possibly	Yes, if it would be regarded as federal felony drug offense.	Could trigger controlled substance grounds	
Embezzlement	750.174	Yes	Likely not fraud/deceit or theft, but see comments. To be safe, avoid sentence of 1 year and keep amount of loss under \$10,000 in record of conviction		<i>Akinsade v. Holder</i> , 678 F.3d 138 (2d Cir. 2012); <i>Valansi v. Ashcroft</i> , 278 F.3d 203 (3d Cir. 2002): Not aggravated felony fraud/deceit offense under 8 USC 1101(a)(43)(M)(i) if there is an intent to injure as opposed to an intent to defraud. To be safe, keep the amount of loss under \$10,000. Could also be aggravated felony theft offense under 8 USC 1101(a)(43)(G), so keep sentence to less than one year.
Breaking, Escaping, or Leaving Jail	750.195	Yes	Yes		
Breaking, Escaping, or Attempting to Break or Escape from Prison	750.193	Yes	Yes		



**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Ethnic Intimidation	750.147b	Yes	No		
Failing to Register, Sex Offender	28.724	Yes	No		
False Report of a Felony	750.411a(1)(b)	Yes	No		
False Pretenses	750.218	Yes	No, but avoid a loss to the victim of \$10,000 to avoid fraud/deceit aggravated felony		
Felon in Possession of a Firearm	750.224f	Yes	Yes	8 USC 1227(a)(2)(C)	
Stealing, Removing, or Hiding Another's Financial Transaction Device Without Consent	750.157n	Yes	No		
Possession of Another's Financial Transaction Device with Intent to Use,	750.157p	Yes, if sentence is at least 1 year.	No		

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Deliver, Circulate, or Sell					
Felony Firearm	750.227b	Yes	Yes, if underlying felony and sentence would be aggravated felony	8 USC 1227(a)(2)(C)	
Fleeing & Eluding, 1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> and 4 <sup>th</sup> Degrees	257.602a(5), (4), (3), and (2)	Yes	No		
Forgery	750.248	Yes	Yes, if sentence is at least 1 year		
Larceny from a Vehicle	750.356a(1)	Likely	Likely, if sentence is at least 1 year		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016).
Breaking or Entering a Vehicle with Intent to Steal Property, Damaging the Vehicle	750.356a(3)	Likely	Likely, if sentence is at least 1 year		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016); Joao Maria Oliveira Pavao, 2009 WL 1653712 (BIA May 11, 2009)(unpublished).
Retail Fraud (1st degree - Price Switching)	750.356c(1)(a)	Likely	Likely, if loss to victim exceeds \$10,000		<i>Kawashima v. Holder</i> , 565 U.S. 478 (2012); <i>Pilla v. Holder</i> , 458 Fed.Appx. 518 (6th Cir. 2012);

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

					Katherine Lim Miave Go, 2018 WL 1756892 (BIA Jan. 8, 2018) (unpublished).
Retail Fraud (1st degree - Theft)	750.356c(1)(b)	Likely	Likely, if sentence is at least 1 year		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016).
Retail Fraud (1st degree - False Exchange)	750.356c(1)(c)	Likely	Likely, if loss to victim exceeds \$10,000		
Retail Fraud (2nd/3rd degree - Price Switching)	750.356d(1)(a)	Likely	Unlikely, but avoid sentence of 1 year and loss to victim of \$10,000		
Retail Fraud (2nd/3rd degree - Theft)	750.356d(1)(b)	Likely	Likely, if sentence is at least 1 year		
= Retail Fraud (2nd/3rd degree - False Exchange)	750.356d(1)(c)	Likely	Likely, if loss to victim exceeds \$10,000		
Larceny from a person	750.357	Likely	Yes, if sentence is at least 1 year		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016).

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Larceny in a Building	750.360_	Likely	Yes, if sentence is at least 1 year		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016).
Larceny by Conversion	750.362	Likely	Likely, if loss to victim exceeds \$10,000		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016); <i>Matter of Garcia-Madruga</i> , 24 I&N Dec. 436 (BIA 2008).
Stolen Property Receiving or Concealing	750.535	Unlikely, because of "reason to believe" mens rea	Unlikely, because of "reason to believe" mens rea		<i>Matter of Bepean Joseph Deang</i> , 27 I&N Dec. 57 (BIA 2017).
Fraudulent Receipt of Public Assistance Benefits (>\$500)	400.60_	Likely	Likely, if loss to victim exceeds \$10,000		
Breaking and Entering	750.110_	If larceny, likely; if felony, see notes	Unlikely		CIMT: If D intended to commit a felony, IJ can see whether that target offense is a CIMT by using the modified categorical approach; check this chart to see if that felony is likely to be a CIMT. Agg. felony: <i>US v. Ritchey</i> , 840 F.3d 310 (6th Cir. 2016).

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Home Invasion	750.110a(2)-(4)	Likely	Likely, if sentence is at least 1 year	CIMT: <i>Matter of J-G-D-F</i> , 27 I&N Dec. 82 (BIA 2017). Agg. felony: <i>Matter of Ramon Jasso Arangure</i> , 27 I&N Dec. 178 (BIA 2017, vacated & remanded on other grounds); <i>US v. Quarles</i> , 850 F.3d 836 (6th Cir. 2017), <i>Quarles v. US</i> , 587 U.S. __ (2019).
Entering Without Breaking	750.111	Maybe, see notes	Unlikely	IJ can see whether the target offense is a CIMT using the modified categorical approach; check this chart to see if that misdemeanor is likely to be a CIMT.
Entering Without Permission	750.115	Unlikely	Unlikely	<i>Mykola Nykholat</i> , A087 261 881 (BIA June 3, 2011)(unpublished).
Possession of Burglar's Tools	750.116	Unlikely	Unlikely	The CIMT analysis is tied to the CIMT analysis of breaking and entering (MCL 750.110), above; <i>Manuel Agustin Plazaola Vargas</i> , 2005 WL 1104252 (BIA Mar. 29, 2005) (unpublished).

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Indecent Exposure	750.335a	Possibly	Unlikely		<i>Matter of Alfonso Cortes Medina</i> , 26 I&N Dec. 79 (BIA 2013); Juan Ramirez-Serna, 2018 WL 3007184 (BIA Apr. 17, 2018) (unpublished).
Involuntary Manslaughter	750.321	Yes, if harm was intentional or if gross negligence to perform a legal duty.	No		
Voluntary Manslaughter	750.321	Yes	Possibly, especially if sentence is at least 1 year		
Kidnapping	750.349	Yes	Yes		
Malicious Destruction of Property	750.377a	Likely	Likely if crime of violence under 18 USC 16(a) and sentence of at least one year.		Alain Patrana, 2014 WL 7691444 (BIA Dec. 22, 2014) (unpublished).
Malicious Threats to Extort Money	750.213	Yes	Yes, if sentence is at least 1 year.		

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

Reckless Driving Causing Death	257.626(4)	Yes	Possibly, especially if sentence is at least 1 year		
Murder (1st degree, premeditated)	750.316	Likely	Likely		
Murder (2nd degree)	750.317	Likely	Likely		<i>Matter of M-W-</i> , 25 I&N Dec. 748 (BIA 2012).
Checks Without Sufficient Funds	750.131	Likely.	Possibly under 8 USC 1101(a)(43)(M)(i) if amount of loss exceeds \$10,000.		
Drawing Check on Bank Without Account	750.131a(1)	Yes	Possibly under 8 USC 1101(a)(43)(M)(i) if amount of loss exceeds \$10,000.		
Three Insufficient Fund Checks Within 10 Days	750.131a(2)	Yes	Possibly under 8 USC 1101(a)(43)(M)(i) if amount of loss exceeds \$10,000.		
Operating While Intoxicated (OWI)	257.625	No	No	Alcohol-related driving offenses can lead to prudential revocation of	

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM’s Immigration Law Section & American Immigration Lawyers Association  
 October 2019

				visas and inadmissibility on medical/health-related grounds	
Driving While License Suspended or Revoked	257.904	No	No		
Perjury Committed in Courts	750.422	Yes	Yes, if sentence is at least 1 year.		
Perjury	750.423	Yes	Yes, if sentence is at least 1 year.		
Manufacture/Possession with Intent to Deliver (anything but marijuana)	333.7401(2)(a)	Yes	Yes	Also a controlled substance offense, “reason to believe” a drug trafficker	
Manufacture/Possession with Intent to Deliver (>5kg Marijuana)	333.7401(2)(d)(i)-(ii)	Yes	Likely because quantity is defined as more than 5kg	Also a controlled substance offense, “reason to believe” a drug trafficker	
Manufacture/Possession with Intent	333.7401(2)(d)(ii)	Yes	Unlikely	A controlled substance offense, “reason to	



**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

to Deliver (<5kg Marijuana)				believe" a drug trafficker	
Possession of Controlled Substance (anything but marijuana)	333.7403(2)(a)(i)v)	Unlikely	No, unless it would be a federal felony (more than a certain amount of crack, or certain recidivist offenses)	A controlled substance offense	
Possession of Marijuana	333.7403(2)(d)	Unlikely	No	A controlled substance offense (but not a deportable offense if a single conviction involving less than 30 grams for personal use).	
Robbery (Armed)	750.529	Likely	Likely, if sentence is at least 1 year		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016).
Robbery (Unarmed)	750.530_	Likely	Likely, if sentence is at least 1 year		<i>Matter of Guillermo Diaz-Lizarraga</i> , 26 I&N Dec. 847 (BIA 2016).
Stalking	750.411h	Unlikely	No	Possibly under 8 USC 1227(A)(2)(E)	<i>Matter of Ajami</i> , 22 I&N Dec. 949 (BIA 1999) (may no longer be good law); <i>Matter of U. Singh</i> , 25 I&N Dec. 670 (BIA

**Immigration Consequences of Selected Michigan Offenses Reference Chart**  
 Provided by SBM's Immigration Law Section & American Immigration Lawyers Association  
 October 2019

					2012); <i>Matter of Sanchez-Lopez</i> , 27 I&N Dec. 256 (BIA 2018)
Aggravated Stalking	750.411i	Possibly		Possibly under 8 USC 1227(A)(2)(E)	<i>Matter of Ajami</i> , 22 I&N Dec. 949 (BIA 1999) (may no longer be good law); <i>Matter of U. Singh</i> , 25 I&N Dec. 670 (BIA 2012); <i>Matter of Sanchez-Lopez</i> , 27 I&N Dec. 256 (BIA 2018)
Criminal Nonsupport (Spouse or Children)	750.165	Yes	No		
Unlawfully Driving Away an Automobile (UDAA)	750.413	Yes	Possibly if sentence is at least 1 year		
Unlawful Use of an Automobile (UUA)	750.414	No	No, but avoid a sentence of at least 1 year		
Unlawfully Accessing a Computer System	752.795(a)	It depends on which portion of the divisible	Unlikely		

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 October 2019

		statute individual convicted of			
Use of a Computer to Commit Specified Crimes	750.145d	Likely, if underlying crime is a CIMT	Likely, if underlying crime is an aggravated felony		
Possessing child sexual abusive material	750.145c(4)	Unlikely, but avoid	Unlikely, but avoid		Arturo Mandujano-Torres, A091 480 873 (BIA Jan. 4, 2017) (unpublished).
Uttering and Publishing	750.249	Likely	Likely, if loss to victim exceeds \$10,000		<i>Yeremin v. Holder</i> , 738 F.3d 708 (6th Cir. 2013).