

Under the categorical analysis, a non-citizen's actual conduct will not determine whether his conviction satisfies a criminal ground of deportability.

YES

NO

Does the statute of conviction contain multiple discrete offenses some of which satisfy a ground of deportability while others do not? Subsections? Disjunctive phrasing?

Judge may examine "record of conviction" to determine which subsection or offense of conviction

No examination of record of conviction

Compare the elements of the statute of conviction to the generic removal ground of sexual abuse of a minor

Does the generic removal ground contain an element that is not a necessary element of the statute of conviction?

YES

The conviction is NOT an aggravated felony

NO

Does the state statute create a crime outside the generic definition of a listed crime in the federal statute (removal ground)?

NO

The conviction is an aggravated felony

YES

Is there a "real probability, not a theoretical possibility" that the state would apply its statute to conduct falling outside the generic definition?

YES

The conviction is NOT an aggravated felony

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