Bond Proceedings

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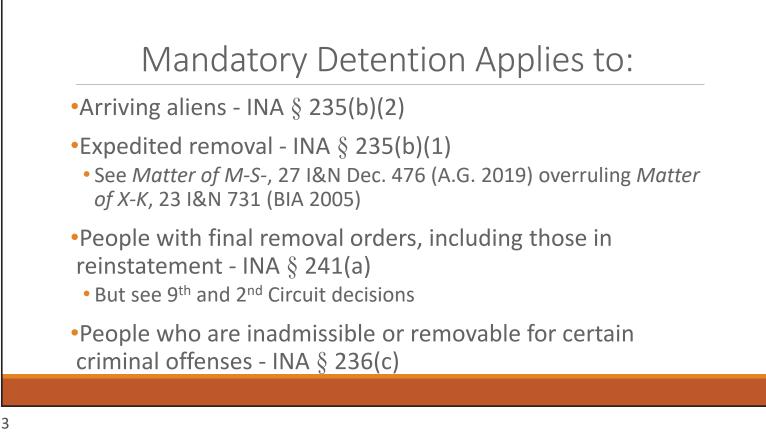
Legal Authority for Detention

INA § 236; 8 CFR 1003.14; 8 CFR § 1236.1; 8 CFR 1003.19 (general)

≻INA § 241 (final orders)

>INA § 235 (arriving aliens/expedited removal)

>INA § 238 (administrative removal)



Matter of M-S- update

Impacts asylum seekers

Overrules prior precedent allowing bond hearings for individuals who entered without inspection, were initially processed for expedited removal, but passed their credible fear interviews

Implementation delayed for 90 days

INA § 236(c)

Statute indicates AG "shall" detain certain classes of people "when the alien is released" even if released on parole, supervised release, or probation. If the person is subject to mandatory detention, IJ has no jurisdiction to set a bond.

Exception for people in witness protection program or to protect other witnesses

> Applies to people released after Oct. 9, 1998

236(c)(1) - Mandatory detention if inadmissible* pursuant to INA 212(a)(2): Trafficking in persons Crimes involving moral turpitude (CIMT) Money laundering • People who have asserted Controlled substance violations immunity from prosecution Multiple criminal convictions Foreign government officials with aggregate sentence of who have committed confinement of 5 years or particularly severe violations of more religious freedom Reason to believe trafficker of *no conviction necessary if controlled substance admission of essential elements Prostitution

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