

HOUSE BILL No. 2350

By Committee on Corrections and Juvenile Justice

2-8

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to crimes against persons; creating the crimes of human smuggling and
3 aggravated human smuggling; providing criminal penalties therefor.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) (1) Human smuggling is **intentionally** transporting,
7 ~~harboring or concealing an individual into or within Kansas who~~ **when the**
8 ~~person:~~

9 ~~(A) Knows, or should have known, that the individual is entering~~
10 ~~into or remaining in the United States illegally;~~

11 ~~(B) benefits financially or receives anything of value; and~~

12 ~~(C) knows, or should have known, that the individual being~~
13 ~~smuggled is likely to be exploited for the financial gain of another~~
14 ~~moving, concealing, harboring or shielding from detection an alien with~~
15 ~~knowledge or reckless disregard of the fact that such alien has come to,~~
16 ~~entered or remains in the United States in violation of the law in~~
17 ~~exchange for anything of value.~~

18 (2) Aggravated human smuggling is human smuggling that:

19 ~~(A) Is committed using a deadly weapon or by threat of use of a~~
20 ~~deadly weapon;~~

21 ~~(B) causes bodily harm, great bodily harm or disfigurement to the~~
22 ~~individual being smuggled; or~~

23 ~~(C) causes the individual being smuggled to become a victim of a sex~~
24 ~~offense described in article 55 of chapter 21 of the Kansas Statutes~~
25 ~~Annotated, and amendments thereto, or human trafficking as defined in~~
26 ~~K.S.A. 2022 Supp. 21-5426, and amendments thereto, or causes the~~
27 ~~person to commit selling sexual relations as defined in K.S.A. 2022~~
28 ~~Supp. 21-6419, and amendments thereto.~~

29 (b) (1) Human smuggling is a severity level 5, person felony; and

30 (2) aggravated human smuggling is a severity level 3, person felony.

31 (c) *The provisions of subsection (a) shall not apply to:*

32 (1) *Transporting, moving, concealing, harboring or shielding from*
33 *detection an alien that is expressly permitted by federal law; or*

34 (2) *a religious denomination with a bona fide nonprofit, religious*

1 *organization in the United States or the agents or officers of such*
2 *denomination or organization that encourages, invites, calls, allows or*
3 *enables an alien who is present in the United States to perform the*
4 *vocation of a minister or missionary for the denomination or*
5 *organization in the United States as a volunteer who is not compensated*
6 *other than the provision of room, board, travel, medical assistance and*
7 *other basic living expenses if the alien has been a member of the*
8 *denomination or organization for not less than one year.*

9 *(d) (1) The determination of whether an alien has come to, entered*
10 *or remains in the United States in violation of the law shall be made by*
11 *the federal government pursuant to 8 U.S.C. § 1373(c). No state, county*
12 *or local law enforcement officer shall independently determine whether*
13 *an alien is present in the United States in violation of the law.*

14 *(2) A law enforcement officer or agency shall not consider a*
15 *person's race, color or national origin when enforcing this section.*

16 *(e) This section shall be a part of and supplemental to the Kansas*
17 *criminal code.*

18 Sec. 2. This act shall take effect and be in force from and after its
19 publication in the statute book.