

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2350

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2350, as amended, would create the state crimes of human smuggling and aggravated human smuggling, provide for criminal penalties, and make these provisions supplemental to the Kansas Criminal Code.

Crime of Human Smuggling

The bill would define the crime of human smuggling as intentionally transporting, harboring, or concealing an individual into or within Kansas when the person:

- Knows, or should have known, that the individual is entering into or remaining in the United States illegally;
- Benefits financially or receives anything of value; and
- Knows, or should have known, that the individual being smuggled is likely to be exploited for the financial gain of another.

The bill would make the crime of human smuggling a severity level 5 person felony.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Crime of Aggravated Human Smuggling

The bill would define aggravated human smuggling as human smuggling that:

- Is committed using a deadly weapon or by threat of use of a deadly weapon;
- Causes bodily harm, great bodily harm, or disfigurement to the individual being smuggled; or
- Causes the individual being smuggled to become a victim of a sex offense, or human trafficking, or causes the person to commit selling sexual relations all as defined in statute.

The bill would make the crime of aggravated human smuggling a severity level 3 person felony.

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representatives Barth and Schmoe.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 15, 2023, Representatives Barth and Schmoe testified as **proponents** on the bill along with representatives of the Kansas Bureau of Investigation (KBI); and Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association. The proponents generally stated individuals being smuggled are subject to abuse through a loophole in the current law, and the bill would close that loophole.

Written-only proponent testimony was provided by representatives of the Franklin County Attorney's Office and Hope Ranch for Women.

Opponent testimony was provided by the State Board of Indigents Defense Services' Legislative Committee. The opponent stated the bill, as introduced, would criminalize all kinds of everyday professional and humane acts people do, and human smuggling is currently a federal crime.

The House Committee amended the bill to:

- Modify the definition of human smuggling by including the term "intentionally" as it applies to transporting an individual;
- Expand human smuggling to include financial benefits and knowledge that the smuggled individual is likely being exploited for financial gain;
- Modify the definition of aggravated human smuggling to add the threat of use of a deadly weapon; and
- Include statutory references to human trafficking and selling of sexual relations to the elements of aggravated human trafficking (the bill, as introduced, includes sex offenses).

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Sentencing Commission estimates enactment of the bill would result in an increase in prison admissions and bed space but the effect could not be determined.

The Kansas Department of Corrections indicates enactment of the bill would have no fiscal effect. The Office of

Judicial Administration (OJA) indicates enactment of the bill could increase the number of cases filed in district court because this bill creates two new crimes and could result in the collection of docket fees for those cases. The OJA could not estimate a fiscal effect until the Judicial Branch has had an opportunity to operate under the provisions of the bill.

The Attorney General indicates enactment of the bill could add criminal cases to the agency's workload but could not estimate a fiscal effect.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Crimes; aggravated human smuggling; human smuggling; Kansas Criminal Code; intentionally; deadly weapon