As Amended by House Committee

Session of 2023

HOUSE BILL No. 2350

By Committee on Corrections and Juvenile Justice

2-8

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

Be it enacted by the Legislature of the State of Kansas:

- Section 1. (a) (1) Human smuggling is **intentionally** transporting, <u>harboring or concealing an individual into or within Kansas who **when** the <u>person:</u></u>
- (A) Knows, or should have known, that the individual is entering into or remaining in the United States illegally:
 - (B) benefits financially or receives anything of value; and
- (C) knows, or should have known, that the individual being-smuggled is likely to be exploited for the financial gain of another moving, concealing, harboring or shielding from detection an alien with knowledge or reckless disregard of the fact that such alien has come to, entered or remains in the United States in violation of the law in exchange for anything of value.
 - (2) Aggravated human smuggling is human smuggling that:
- (A) Is committed using a deadly weapon or by threat of use of a deadly weapon;
- (B) causes bodily harm, great bodily harm or disfigurement to the individual being smuggled; or
- (C) causes the individual being smuggled to become a victim of a sex offense described in article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or human trafficking as defined in K.S.A. 2022 Supp. 21-5426, and amendments thereto, or causes the person to commit selling sexual relations as defined in K.S.A. 2022 Supp. 21-6419, and amendments thereto.
 - (b) (1) Human smuggling is a severity level 5, person felony; and
 - (2) aggravated human smuggling is a severity level 3, person felony.
- (c) The provisions of subsection (a) shall not apply to:
- (1) Transporting, moving, concealing, harboring or shielding from detection an alien that is expressly permitted by federal law; or
 - (2) a religious denomination with a bona fide nonprofit, religious

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

- (d) (1) The determination of whether an alien has come to, entered or remains in the United States in violation of the law shall be made by the federal government pursuant to 8 U.S.C. § 1373(c). No state, county or local law enforcement officer shall independently determine whether an alien is present in the United States in violation of the law.
- (2) A law enforcement officer or agency shall not consider a person's race, color or national origin when enforcing this section.
- (e) This section shall be a part of and supplemental to the Kansas criminal code.
- Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.