

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2350**

As Agreed to April 6, 2023

**Brief\***

HB 2350 would create the 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.

***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.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

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

### **Conference Committee Action**

The Conference Committee agreed to the provisions of HB 2350, as passed by the House.

### **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 a representative of the State Board of Indigents' Defense Services (BIDS). 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. [*Note:* The bill, as introduced, includes sex offenses.]

[*Note:* The Conference Committee retained these amendments.]

## **Senate Committee on Judiciary**

In the Senate Committee hearing on March 15, 2023, Representatives Barth and Schmoe, the Attorney General, a representative of the KBI, and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association testified as **proponents** on the bill. The proponents provided similar testimony to what was presented in the House hearing. In addition, the Attorney General proposed an amendment to make the bill conform more closely to federal law and thus avoid potential legal challenges. Written-only proponent testimony was submitted by the Franklin County Attorney and a representative of the Hope Ranch for Women.

A representative of BIDS testified as an **opponent** on the bill, expressing concerns related to the bill's impact on Kansas courts and due process rights of vulnerable populations as well as potential legal challenges associated with the bill.

On March 21, 2023, the Senate Committee amended the bill to:

- Modify the definitions of “human smuggling” and “aggravated human smuggling”;
- Add a provision excluding certain conduct from the crimes created by the bill; and
- Add a provision to specify the federal government would make determinations of immigration status as required by the bill.

[Note: The Conference Committee did not retain these amendments.]

On March 22, 2023, the Senate Committee reconsidered the bill and adopted amendments to:

- Further clarify the definition of human smuggling; and
- Further clarify the provision concerning the determination of immigration status.

[Note: The Conference Committee did not retain these amendments.]

## **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 Department of Corrections indicates enactment of the bill would have no fiscal effect. The Office of Judicial Administration 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 Office 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; human smuggling; Kansas Criminal Code

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