

House File 2608 - Introduced

HOUSE FILE 2608
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2112)

A BILL FOR

1 An Act relating to unlawful activities, including those
2 related to state residency and citizenship requirements
3 in determining eligibility for public assistance, and the
4 smuggling of persons, and providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I
2 STATE RESIDENCY AND CITIZENSHIP REQUIREMENTS FOR PUBLIC
3 ASSISTANCE

4 Section 1. NEW SECTION. 239.12 Residency and citizen
5 requirements for public assistance — verification of noncitizen
6 status through the systematic alien verification for entitlements
7 program.

8 1. The department shall require that all noncitizen
9 applicants, who are identified as noncitizens on their
10 application, document and verify their noncitizen status. The
11 department shall determine from the documentation obtained
12 if the person is a noncitizen who may be eligible to receive
13 public assistance. Only a noncitizen who is both a resident
14 of Iowa and is a qualified alien shall be eligible for public
15 assistance.

16 2. The department shall also verify the immigration status
17 of all noncitizen applicants through the systematic alien
18 verification for entitlements program administered by the
19 United States department of homeland security.

20 3. For the purposes of this section:

21 a. *“Qualified alien”* means the same as defined in 8 U.S.C.
22 §1641.

23 b. *“Resident”* means a person who is living in the state with
24 the intent to remain permanently or for an indefinite period.

25 DIVISION II

26 SMUGGLING OF PERSONS

27 Sec. 2. NEW SECTION. 710.12 Smuggling of persons.

28 1. A person commits the offense of smuggling of persons when
29 the person knowingly, for payment or some other benefit, does
30 any following involving a noncitizen individual:

31 a. Uses a motor vehicle, aircraft, watercraft, or other
32 means of conveyance to transport an individual with the intent
33 to:

34 (1) Conceal the individual from a peace officer.

35 (2) Flee from a person the actor knows is a peace officer

1 attempting to lawfully arrest or detain the actor.

2 *b.* Encourage or induce a person to enter or remain in
3 the United States in violation of federal law by concealing,
4 harboring, or shielding that person from detection.

5 *c.* Assist, guide, or direct two or more individuals to enter
6 or remain on agricultural land without the effective consent
7 of the owner.

8 2. An offense under this section is a class "C" felony,
9 except that the offense is:

10 *a.* A class "B" felony if the person or other party as
11 specified does any of the following:

12 (1) The person commits the offense in a manner that creates
13 a substantial likelihood that the smuggled individual will
14 suffer serious bodily injury or death.

15 (2) The person smuggles an individual who is a child younger
16 than eighteen years of age at the time of the offense.

17 (3) The person commits the offense with the intent to obtain
18 a pecuniary benefit.

19 (4) During the commission of the offense, the actor, another
20 party to the offense, or an individual assisted, guided, or
21 directed by the actor knowingly possessed a firearm.

22 *b.* A class "A" felony under any of the following
23 circumstances:

24 (1) If as a direct result of the commission of the offense,
25 the smuggled individual became a victim of sexual abuse in the
26 first degree under section 709.2 or sexual abuse in the second
27 degree under section 709.3.

28 (2) If the smuggled individual suffered serious bodily
29 injury or death.

30 3. It is an affirmative defense to prosecution of an offense
31 under this section, other than an offense punishable under
32 subsection 2, paragraph "a", subparagraph (1), or subsection
33 2, paragraph "b", that the actor is related to the smuggled
34 individual within the second degree of consanguinity or, at the
35 time of the offense, within the second degree of affinity.

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EXPLANATION

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The inclusion of this explanation does not constitute agreement with
3 the explanation's substance by the members of the general assembly.

3

4 This bill relates to unlawful activities, including those
5 related to requirements for public assistance and to the
6 smuggling of persons.

7 Division I of the bill relates to state residency and
8 citizenship requirements for public assistance. The bill
9 provides that the department of health and human services
10 (HHS) shall require that all noncitizen applicants for
11 public assistance, who are identified as noncitizens on their
12 application, document and verify their noncitizen status.
13 HHS shall determine from the documentation obtained if the
14 person is a noncitizen who may be eligible to receive public
15 assistance, and such a noncitizen shall only be eligible for
16 public assistance if the person is both a resident of Iowa
17 and a qualified alien as defined under federal law. The bill
18 also requires HHS to verify the immigration status of all
19 noncitizen applicants through the systematic alien verification
20 for entitlements program administered by the United States
21 department of homeland security. The bill defines "qualified
22 alien" and "resident" for the purposes of the bill.

23 Division II of the bill provides that a person commits the
24 offense of smuggling of persons when the person knowingly,
25 for payment or some other benefit, does any of the following
26 involving a noncitizen individual: uses a motor vehicle,
27 aircraft, watercraft, or other means of conveyance to transport
28 an individual with the intent to conceal the individual from a
29 peace officer or flees from a person the actor knows is a peace
30 officer attempting to lawfully arrest or detain the actor;
31 encourages or induces a person to enter or remain in the United
32 States in violation of federal law by concealing, harboring,
33 or shielding that person from detection, or assists, guides,
34 or directs two or more individuals to enter or remain on
35 agricultural land without the effective consent of the owner.

1 The bill provides that smuggling of persons is a class "C"
2 felony, except that the offense is a class "B" felony if the
3 person or other party specified in the bill does any of the
4 following: the person commits the offense in a manner that
5 creates a substantial likelihood that the smuggled individual
6 will suffer serious bodily injury or death; the person smuggled
7 an individual who is a child younger than 18 years of age at the
8 time of the offense; the person committed the offense with the
9 intent to obtain a pecuniary benefit; or during the commission
10 of the offense, the actor, another party to the offense,
11 or another individual assisted, guided, or directed by the
12 actor knowingly possessed a firearm. The bill provides that
13 a violation is a class "A" felony under any of the following
14 circumstances: if as a direct result of the commission of the
15 offense, the smuggled individual became a victim of sexual
16 abuse in the first degree under Code section 709.2 or sexual
17 abuse in the second degree under Code section 709.3; or if the
18 smuggled individual suffered serious bodily injury or death.

19 The bill provides that it is an affirmative defense to
20 prosecution of the offense of smuggling persons, other than
21 an offense committed in a manner that creates a substantial
22 likelihood that the smuggled individual will suffer serious
23 bodily injury or death, or violations resulting in a class
24 "A" felony charge, that the actor is related to the smuggled
25 individual within the second degree of consanguinity or, at the
26 time of the offense, within the second degree of affinity.