

House File 2112 - Introduced

HOUSE FILE 2112

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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:

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DIVISION I

STATE RESIDENCY AND CITIZENSHIP REQUIREMENTS FOR PUBLIC ASSISTANCE

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

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

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

3. For the purposes of this section:

a. "Qualified alien" means the same as defined in 8 U.S.C. §1641.

b. "Resident" means a person who is living in the state with the intent to remain permanently or for an indefinite period.

DIVISION II

SMUGGLING OF PERSONS

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

1. A person commits the offense of smuggling of persons when the person knowingly does any of the following:

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

(1) Conceal the individual from a peace officer.

(2) Flee from a person the actor knows is a peace officer attempting to lawfully arrest or detain the actor.

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

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

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

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

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

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

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

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

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

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

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

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

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EXPLANATION

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

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

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

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

34 The bill provides that smuggling of persons is a class "C"
35 felony, except that the offense is a class "B" felony if the

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

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