

**House Study Bill 703 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON HOLT)

**A BILL FOR**

1 An Act relating to illegal reentry into the state by certain  
2 aliens, prohibition on arrest in certain locations, orders  
3 to return to a foreign nation, immunity from liability  
4 and indemnification for enforcement actions, sentencing  
5 restrictions, and providing penalties.

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

1 Section 1. NEW SECTION. 718C.1 Definitions.

2 As used in this chapter:

3 1. "*Alien*" means the same as defined in 8 U.S.C. §1101, as  
4 of January 1, 2023.

5 2. "*Port of entry*" means a port of entry in the United  
6 States as designated by 19 C.F.R. pt. 101.

7 Sec. 2. NEW SECTION. 718C.2 Illegal reentry into state by  
8 certain aliens.

9 1. A person who is an alien commits an offense if the person  
10 enters, attempts to enter, or is at any time found in this  
11 state under any of the following circumstances:

12 a. The person has been denied admission to or has been  
13 excluded, deported, or removed from the United States.

14 b. The person has departed from the United States while an  
15 order of exclusion, deportation, or removal is outstanding.

16 2. An offense under this section is an aggravated  
17 misdemeanor, except that the offense is:

18 a. A class "D" felony if any of the following are true:

19 (1) The person's removal was subsequent to a conviction for  
20 commission of two or more misdemeanors involving drugs, crimes  
21 against a person, or both.

22 (2) The person was excluded pursuant to 8 U.S.C.  
23 §1225(c) because the defendant was excludable under 8 U.S.C.  
24 §1182(a)(3)(B).

25 (3) The person was removed pursuant to the provisions of 8  
26 U.S.C. ch. 12, subch. V.

27 (4) The person was removed pursuant to 8 U.S.C.  
28 §1231(a)(4)(B).

29 b. A class "C" felony if the person was removed subsequent  
30 to a conviction for the commission of a felony.

31 3. For purposes of this section, "*removal*" includes an order  
32 issued under this chapter or any other agreement in which an  
33 alien stipulates to removal pursuant to a criminal proceeding  
34 under either federal or state law.

35 Sec. 3. NEW SECTION. 718C.3 Arrest prohibited in certain

1 **locations.**

2 Notwithstanding any other law, a peace officer may not  
3 arrest or detain a person for purposes of enforcing a provision  
4 of this chapter if the person is on the premises or grounds of  
5 any of the following places:

6 1. A public or private primary or secondary school for  
7 educational purposes.

8 2. A church, synagogue, or other established place of  
9 religious worship.

10 3. A health care facility, as defined in section 135C.1,  
11 including a facility a state agency maintains or operates to  
12 provide health care, or the office of a health care provider,  
13 provided that the person is on the premises or grounds of  
14 the facility or office for the purpose of receiving medical  
15 treatment.

16 4. A facility that provides forensic medical examinations  
17 to sexual assault survivors provided that the person is on the  
18 premises or grounds of the facility for purposes of obtaining a  
19 forensic medical examination and treatment.

20 **Sec. 4. NEW SECTION. 718C.4 Order to return to foreign**  
21 **nation.**

22 1. A judge during a person's initial appearance following  
23 an arrest for a violation of this chapter may, after making a  
24 determination that probable cause exists for the arrest, order  
25 the person released from custody and issue a written order in  
26 accordance with subsection 3.

27 2. The judge in a person's case at any time after the  
28 person's initial appearance may, in lieu of continuing the  
29 prosecution of or entering an adjudication regarding an offense  
30 under this chapter, dismiss the charge pending against the  
31 person and issue a written order in accordance with subsection  
32 3.

33 3. A written order authorized by subsection 1 or 2 shall  
34 discharge the person and require the person to return to the  
35 foreign nation from which the person entered or attempted

1 to enter, and may be issued only if all of the following  
2 requirements are met:

3     *a.* The person agrees to the order.

4     *b.* The person has not previously been convicted of an  
5 offense under this chapter, or previously obtained a discharge  
6 under an order under subsection 1 or 2.

7     *c.* The person is not charged with another offense that is  
8 punishable as an aggravated misdemeanor or any higher category  
9 of offense.

10     *d.* Before the issuance of the order, the arresting law  
11 enforcement agency has done all of the following:

12         (1) Collected all available identifying information of the  
13 person, which must include taking fingerprints from the person  
14 and using other applicable photographic and biometric measures  
15 to identify the person.

16         (2) Cross-referenced the collected information with all  
17 relevant local, state, and criminal databases and federal lists  
18 or classifications used to identify a person as a threat or  
19 potential threat to national security.

20     4. Upon a person's conviction of an offense under this  
21 chapter, the judge shall enter in the judgment in the case an  
22 order requiring the person to return to the foreign nation  
23 from which the person entered or attempted to enter. An order  
24 issued under this subsection takes effect on completion of the  
25 term of confinement or imprisonment imposed by the judgment.

26     5. An order issued under this section must include all of  
27 the following:

28         *a.* The manner of transportation of the person to a port of  
29 entry.

30         *b.* The law enforcement officer or state agency responsible  
31 for monitoring compliance with the order.

32     6. An order issued under this article must be filed with  
33 the county clerk of the county in which the person was arrested  
34 for an order described by subsection 1, or with the clerk of  
35 the court exercising jurisdiction in the case for an order

1 described by subsection 2 or 4.

2 7. Not later than the seventh day after the date an order is  
3 issued under this section, the law enforcement officer or state  
4 agency required to monitor compliance with the order shall  
5 report the issuance of the order to the department of public  
6 safety for inclusion in the computerized criminal history  
7 system.

8 Sec. 5. NEW SECTION. 718C.5 Refusal to comply with order to  
9 return to foreign nation.

10 1. A person who is an alien commits an offense if all of the  
11 following are true:

12 a. The person has been charged with or convicted of an  
13 offense under this chapter.

14 b. A judge has issued an order under this chapter for the  
15 person to return to the foreign nation from which the person  
16 entered or attempted to enter.

17 c. The person failed to comply with the order.

18 2. An offense under this section is a class "C" felony.

19 Sec. 6. NEW SECTION. 718C.6 Abatement of prosecution on  
20 basis of immigration status determination prohibited.

21 A court may not abate the prosecution of an offense under  
22 this chapter on the basis that a federal determination  
23 regarding the immigration status of the person is pending or  
24 will be initiated.

25 Sec. 7. NEW SECTION. 718C.7 Civil immunity for and  
26 indemnification of local government officials, employees, and  
27 contractors.

28 1. Except as provided by subsection 4, a local government  
29 official, employee, or contractor is immune from liability  
30 for damages arising from a cause of action under state law  
31 resulting from an action taken by the official, employee,  
32 or contractor to enforce this chapter during the course and  
33 scope of the official's, employee's, or contractor's office,  
34 employment, or contractual performance for or service on behalf  
35 of the local government.

1     2. Subject to subsection 3 and except as provided by  
2 subsection 4, a local government shall indemnify an official,  
3 employee, or contractor of the local government for damages  
4 arising from a cause of action under federal law resulting  
5 from an action taken by the official, employee, or contractor  
6 to enforce this chapter during the course and scope of the  
7 official's, employee's, or contractor's office, employment, or  
8 contractual performance for or service on behalf of the local  
9 government.

10    3. Indemnification payments made under subsection 2 by a  
11 local government shall not exceed the following:

12    a. One hundred thousand dollars to any one person or three  
13 hundred thousand dollars for any single occurrence in the case  
14 of personal injury or death.

15    b. Ten thousand dollars for a single occurrence of property  
16 damage.

17    4. Subsections 1 and 2 do not apply if the court or jury  
18 determines that the local government official, employee, or  
19 contractor acted in bad faith, with conscious indifference, or  
20 with recklessness.

21    5. A local government shall indemnify an official,  
22 employee, or contractor of the local government for reasonable  
23 attorney fees incurred in defense of a criminal prosecution  
24 against the official, employee, or contractor for an action  
25 taken by the official, employee, or contractor to enforce  
26 this chapter during the course and scope of the official's,  
27 employee's, or contractor's office, employment, or contractual  
28 performance for or service on behalf of the local government.

29    6. This section shall not be construed to waive any  
30 statutory limits on damages under state law.

31    Sec. 8. NEW SECTION. 718C.8 Civil immunity for and  
32 indemnification of state officials, employees, and contractors.

33    1. Except as provided by subsection 4, an elected or  
34 appointed state official, or a state employee or contractor,  
35 is immune from liability for damages arising from a cause of

1 action under state law resulting from an action taken by the  
2 official, employee, or contractor to enforce this chapter  
3 during the course and scope of the official's, employee's, or  
4 contractor's office, employment, or contractual performance for  
5 or service on behalf of the state.

6 2. Except as provided by subsection 4, the state shall  
7 indemnify an elected or appointed state official or a state  
8 employee or contractor for damages arising from a cause of  
9 action under federal law resulting from an action taken by  
10 the official, employee, or contractor to enforce this chapter  
11 during the course and scope of the official's, employee's, or  
12 contractor's office, employment, or contractual performance for  
13 or service on behalf of the state.

14 3. Notwithstanding any other law, an indemnification  
15 payment made under subsection 2 is not subject to an  
16 indemnification limit under the laws of this state.

17 4. Subsections 1 and 2 do not apply if the court or jury  
18 determines that the state official, employee, or contractor  
19 acted in bad faith, with conscious indifference, or with  
20 recklessness.

21 5. The state shall indemnify a state official, employee,  
22 or contractor for reasonable attorney fees incurred in defense  
23 of a criminal prosecution against the official, employee, or  
24 contractor for an action taken by the official, employee,  
25 or contractor to enforce this chapter during the course and  
26 scope of the official's, employee's, or contractor's office,  
27 employment, or contractual performance for or service on behalf  
28 of the state.

29 6. A state official, employee, or contractor who may be  
30 entitled to indemnification under subsection 2 is entitled  
31 to representation by the attorney general in an action in  
32 connection with which the official, employee, or contractor may  
33 be entitled to that indemnification.

34 7. This section shall not be construed to waive any  
35 statutory limits on damages under state law.

1     **Sec. 9. NEW SECTION. 718C.9 Appeal to supreme court.**

2     For a civil action brought against a person who may be  
3 entitled to immunity or indemnification under section 718C.7 or  
4 718C.8, an appeal shall be taken directly to the supreme court.

5     **Sec. 10. NEW SECTION. 718C.10 Deferred judgment, deferred  
6 sentence, or suspended sentence prohibited.**

7     Notwithstanding any other provision of law, a person who is  
8 convicted of an offense under section 718C.2 or 718C.5 shall  
9 not be eligible for a deferred judgment, deferred sentence, or  
10 suspended sentence.

11     **Sec. 11.** Section 907.3, unnumbered paragraph 1, Code 2024,  
12 is amended to read as follows:

13     Pursuant to [section 901.5](#), the trial court may, upon a plea  
14 of guilty, a verdict of guilty, or a special verdict upon which  
15 a judgment of conviction may be rendered, exercise any of the  
16 options contained in [this section](#). However, [this section](#) does  
17 not apply to a forcible felony, ~~or~~ to a violation of chapter  
18 709 committed by a person who is a mandatory reporter of child  
19 abuse under [section 232.69](#) in which the victim is a person who  
20 is under the age of eighteen, or to a violation of section  
21 718C.2 or 718C.5.

22                                       EXPLANATION

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

25     This bill relates to illegal reentry into the state by  
26 certain aliens, prohibition on arrest in certain locations,  
27 orders to return to a foreign nation, immunity from liability  
28 and indemnification for enforcement actions, and sentencing  
29 restrictions.

30     The bill provides that a person who is an alien commits an  
31 offense if the person enters, attempts to enter, or is at any  
32 time found in this state if the person has previously been  
33 denied admission to or has been excluded, deported, or removed  
34 from the United States, or the person previously departed from  
35 the United States while an order of exclusion, deportation, or



1 removal was outstanding.

2 The bill provides that the offense is an aggravated  
3 misdemeanor, except that the offense is: a class "D" felony  
4 if the person's removal was subsequent to a conviction for  
5 commission of two or more misdemeanors involving drugs, crimes  
6 against a person, or both; the person was excluded pursuant to  
7 8 U.S.C. §1225(c) because the defendant was excludable under  
8 8 U.S.C. §1182(a)(3)(B); the person was removed pursuant to  
9 the provisions of 8 U.S.C. ch. 12, subch. V, or the person was  
10 removed pursuant to 8 U.S.C. §1231(a)(4)(B). An offense is  
11 a class "C" felony if the person was removed subsequent to a  
12 conviction for the commission of a felony. The bill provides  
13 that "removal" includes an order issued under the bill or  
14 any other agreement in which an alien stipulates to removal  
15 pursuant to a criminal proceeding under either federal or state  
16 law. An aggravated misdemeanor is punishable by confinement  
17 for no more than two years and a fine of at least \$855 but  
18 not more than \$8,540. A class "D" felony is punishable by  
19 confinement for no more than five years and a fine of at least  
20 \$1,025 but not more than \$10,245. A class "C" felony is  
21 punishable by confinement for no more than 10 years and a fine  
22 of at least \$1,370 but not more than \$13,660.

23 The bill provides that a peace officer may not arrest or  
24 detain a person for purposes of enforcing a provision of  
25 the bill if the person is on the premises or grounds of: a  
26 public or private primary or secondary school for educational  
27 purposes; a church, synagogue, or other established place of  
28 religious worship; a health care facility, provided that the  
29 person is on the premises or grounds of the facility or office  
30 for the purpose of receiving medical treatment; or a facility  
31 that provides forensic medical examinations to sexual assault  
32 survivors provided that the person is on the premises or  
33 grounds of the facility for purposes of obtaining a forensic  
34 medical examination and treatment.

35 The bill provides that a judge during a person's initial

1 appearance following an arrest for a violation of the bill  
2 may, after making a determination that probable cause exists  
3 for the arrest, order the person released from custody and  
4 issue a written order requiring the person to return to the  
5 foreign nation from which the person came. The judge in a  
6 person's case at any time after the person's initial appearance  
7 may, in lieu of continuing the prosecution of or entering an  
8 adjudication regarding an offense under the bill, dismiss the  
9 charge pending against the person and issue a written order  
10 requiring the person to return to the foreign nation from which  
11 the person came. A written order discharging the person and  
12 requiring the person to return to the foreign nation from  
13 which the person entered or attempted to enter may be issued  
14 only if all of the following occur: the person agrees to  
15 the order; the person has not previously been convicted of  
16 an offense under the bill or previously obtained a discharge  
17 under an order to return to the foreign nation from which the  
18 person came; the person is not charged with another offense  
19 that is punishable as an aggravated misdemeanor or any higher  
20 category of offense; and the arresting law enforcement agency  
21 has collected all available identifying information of the  
22 person and has cross-referenced the collected information with  
23 all relevant local, state, and criminal databases and federal  
24 lists or classifications used to identify a person as a threat  
25 or potential threat to national security.

26 Upon conviction for a violation of the bill, the bill  
27 provides that the judge shall enter in the judgment in the case  
28 an order requiring the person to return to the foreign nation  
29 from which the person entered or attempted to enter. An order  
30 issued under this provision takes effect on completion of the  
31 term of confinement or imprisonment imposed by the judgment.

32 The bill provides that an order must include the manner of  
33 transportation of the person to a port of entry and the law  
34 enforcement officer or state agency responsible for monitoring  
35 compliance with the order. Within seven days of an order's

1 issuance, the law enforcement officer or state agency required  
2 to monitor compliance with the order shall report the issuance  
3 of the order to the department of public safety for inclusion  
4 in the computerized criminal history system.

5 The bill provides that a person who is an alien commits an  
6 offense if the person has been charged with or convicted of an  
7 offense under the bill, a judge has issued an order under the  
8 bill for the person to return to the foreign nation from which  
9 the person entered or attempted to enter, and the person failed  
10 to comply with the order. An offense under this provision of  
11 the bill is a class "C" felony.

12 The bill provides that a court may not abate the prosecution  
13 of an offense under the bill on the basis that a federal  
14 determination regarding the immigration status of the person is  
15 pending or will be initiated.

16 The bill provides that a local government official,  
17 employee, or contractor is immune from liability for damages  
18 arising from a cause of action resulting from an action taken  
19 to enforce the bill. A local government shall indemnify an  
20 official, employee, or contractor of the local government  
21 for damages arising from a cause of action under federal law  
22 resulting from an action taken to enforce the bill.

23 The bill provides that indemnification payments made by a  
24 local government shall not exceed \$100,000 to any one person,  
25 \$300,000 for any single occurrence in the case of personal  
26 injury or death, or \$10,000 for a single occurrence of property  
27 damage.

28 If the court or jury determines that the local government  
29 official, employee, or contractor acted in bad faith, with  
30 conscious indifference, or with recklessness, the official,  
31 employee, or contractor is not entitled to immunity or  
32 indemnification.

33 The bill provides that an elected or appointed state  
34 official, or a state employee or contractor, is immune from  
35 liability for damages resulting from an action taken to enforce

1 the bill.

2 The bill provides that the state shall indemnify an elected  
3 or appointed state official, or a state employee or contractor,  
4 for damages arising from a cause of action under federal law  
5 resulting from an action taken by the official, employee, or  
6 contractor to enforce the bill. An indemnification payment  
7 made to an elected or appointed state official, or a state  
8 employee or contractor, is not subject to an indemnification  
9 limit under the laws of this state.

10 If the court or jury determines that an elected or appointed  
11 state official, or a state employee or contractor, acted in bad  
12 faith, with conscious indifference, or with recklessness, the  
13 elected or appointed state official, or a state employee or  
14 contractor, is not entitled to immunity or indemnification.

15 The bill provides that a state official, employee, or  
16 contractor who may be entitled to indemnification is entitled  
17 to representation by the attorney general.

18 Current law generally provides that the trial court may,  
19 upon a plea of guilty, a verdict of guilty, or a special  
20 verdict upon which a judgment of conviction may be rendered,  
21 defer judgment, defer sentencing, or suspend the sentence.  
22 This provision does not apply to a forcible felony or to a  
23 violation of Code chapter 709 (sexual abuse) committed by a  
24 person who is a mandatory reporter of child abuse in which the  
25 victim is a person who is under the age of 18.

26 The bill adds a violation of the bill to those offenses for  
27 which the option to render a deferred judgment or sentence, or  
28 a suspended sentence, does not apply.