

House Study Bill 15 - Introduced

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

A BILL FOR

1 An Act establishing the criminal offense of the smuggling of
2 persons, and providing penalties.

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

unofficial

1 Section 1. NEW SECTION. **710.12 Smuggling of persons.**

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

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

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

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

10 b. Encourage or induce a person to enter or remain in
11 the United States in violation of federal law by concealing,
12 harboring, or shielding that person from detection.

13 c. Assist, guide, or direct two or more individuals to enter
14 or remain on agricultural land without the effective consent of
15 the owner.

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

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

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

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

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

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

30 b. A class "A" felony under any of the following
31 circumstances:

32 (1) If as a direct result of the commission of the offense,
33 the smuggled individual became a victim of sexual abuse in the
34 first degree under section 709.2 or sexual abuse in the second
35 degree under section 709.3.

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

3 3. It is an affirmative defense to prosecution of an offense
4 under this section, other than an offense punishable under
5 subsection 2, paragraph "a", subparagraph (1), or subsection
6 2, paragraph "b", that the actor is related to the smuggled
7 individual within the second degree of consanguinity or, at the
8 time of the offense, within the second degree of affinity.

9 EXPLANATION

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

12 This bill establishes the criminal offense of the smuggling of
13 persons.

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

27 The bill provides that smuggling of persons is a class "C"
28 felony, except that the offense is a class "B" felony if the
29 person or other party specified in the bill does any of the
30 following: the person commits the offense in a manner that
31 creates a substantial likelihood that the smuggled individual
32 will suffer serious bodily injury or death; the person smuggled
33 an individual who is a child younger than 18 years of age at the
34 time of the offense; the person committed the offense with the
35 intent to obtain a pecuniary benefit; or during the commission of

1 the offense, the actor, another party to the offense, or another
2 individual assisted, guided, or directed by the actor knowingly
3 possessed a firearm. The bill provides that a violation is a
4 class "A" felony under any of the following circumstances: if
5 as a direct result of the commission of the offense, the smuggled
6 individual became a victim of sexual abuse in the first degree
7 under Code section 709.2 or sexual abuse in the second degree
8 under Code section 709.3; or if the smuggled individual suffered
9 serious bodily injury or death.

10 The bill provides that it is an affirmative defense to
11 prosecution of the offense of smuggling persons, other than
12 an offense committed in a manner that creates a substantial
13 likelihood that the smuggled individual will suffer serious
14 bodily injury or death, or violations resulting in a class
15 "A" felony charge, that the actor is related to the smuggled
16 individual within the second degree of consanguinity or, at the
17 time of the offense, within the second degree of affinity.