

115TH CONGRESS
1ST SESSION

S. 224

To amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2017

Mr. RUBIO (for himself, Mr. HATCH, Mr. CRUZ, Mr. BLUNT, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Interstate Abor-
5 tion Notification Act”.

6 **SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION**
7 **OF CERTAIN LAWS RELATING TO ABORTION.**

8 Part I of title 18, United States Code, is amended
9 by inserting after chapter 117 the following:

1 **“CHAPTER 117A—TRANSPORTATION OF**
 2 **MINORS IN CIRCUMVENTION OF CER-**
 3 **TAIN LAWS RELATING TO ABORTION**

“Sec.

“2431. Transportation of minors in circumvention of certain laws relating to abortion.

“2432. Transportation of minors in circumvention of certain laws relating to abortion and incest.

4 **“§ 2431. Transportation of minors in circumvention of**
 5 **certain laws relating to abortion**

6 “(a) OFFENSE.—

7 “(1) GENERALLY.—Except as provided in sub-
 8 section (b), whoever knowingly transports a minor
 9 across a State line, with the intent that the minor
 10 obtain an abortion, and thereby in fact abridges the
 11 right of a parent of the minor under a law requiring
 12 parental involvement in a minor’s abortion decision,
 13 in force in the State in which the minor resides,
 14 shall be fined under this title or imprisoned not
 15 more than 1 year, or both.

16 “(2) DEFINITION.—For the purposes of this
 17 subsection, an abridgement of the right of a parent
 18 of a minor occurs if an abortion is performed or in-
 19 duced on the minor, in a State other than the State
 20 in which the minor resides or in a foreign country,
 21 without the parental consent or notification, or the
 22 judicial authorization, that would have been required
 23 under a law requiring parental involvement in a mi-

1 nor's abortion decision had the abortion been per-
 2 formed in the State in which the minor resides.

3 “(b) EXCEPTIONS.—

4 “(1) LIFE-ENDANGERING CONDITIONS.—The
 5 prohibition under subsection (a) shall not apply if
 6 the abortion is necessary to save the life of the
 7 minor because her life is endangered by a physical
 8 disorder, physical injury, or physical illness, includ-
 9 ing a life endangering physical condition caused by
 10 or arising from the pregnancy itself.

11 “(2) MINORS AND PARENTS.—A minor trans-
 12 ported in violation of this section, and any parent of
 13 that minor, may not be prosecuted or sued for a vio-
 14 lation of this section, a conspiracy to violate this sec-
 15 tion, or an offense under section 2 or 3 of this title
 16 based on a violation of this section.

17 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative
 18 defense to a prosecution for an offense, or to a civil action,
 19 based on a violation of this section that the defendant—

20 “(1) reasonably believed, based on information
 21 the defendant obtained directly from a parent of the
 22 minor, that before the minor obtained the abortion,
 23 the parental consent or notification took place that
 24 would have been required under the law requiring
 25 parental involvement in a minor's abortion decision,

1 had the abortion been performed in the State in
2 which the minor resides; or

3 “(2) was presented with documentation showing
4 with a reasonable degree of certainty that a court in
5 the minor’s State of residence waived any parental
6 notification required by the laws of that State, or
7 otherwise authorized that the minor be allowed to
8 procure an abortion.

9 “(d) CIVIL ACTION.—Any parent who suffers harm
10 from a violation of subsection (a) may obtain appropriate
11 relief in a civil action unless the parent has committed
12 an act of incest with the minor described in subsection
13 (a).

14 “(e) DEFINITIONS.—For the purposes of this sec-
15 tion—

16 “(1) the term ‘abortion’ means the use or pre-
17 scription of any instrument, medicine, drug, or other
18 substance or device to intentionally—

19 “(A) kill the unborn child of a woman
20 known to be pregnant; or

21 “(B) prematurely terminate the pregnancy
22 of a woman known to be pregnant, with an in-
23 tention other than to—

1 “(i) increase the probability of a live
2 birth or of preserving the life or health of
3 the child after live birth; or

4 “(ii) remove a dead unborn child;

5 “(2) the term ‘law requiring parental involve-
6 ment in a minor’s abortion decision’ means a law—

7 “(A) requiring, before an abortion is per-
8 formed on a minor, either—

9 “(i) the notification to, or consent of,
10 a parent of that minor; or

11 “(ii) proceedings in a State court; and

12 “(B) that does not provide as an alter-
13 native to the requirements described in sub-
14 paragraph (A) notification to or consent of any
15 person or entity not described in that subpara-
16 graph;

17 “(3) the term ‘minor’ means an individual who
18 is not older than the maximum age requiring paren-
19 tal notification or consent, or proceedings in a State
20 court, under a law requiring parental involvement in
21 a minor’s abortion decision;

22 “(4) the term ‘parent’ means—

23 “(A) a parent or guardian;

24 “(B) a legal custodian; or

1 “(C) an individual standing in loco
2 parentis—

3 “(i) who has care and control of the
4 minor;

5 “(ii) with whom the minor regularly
6 resides; and

7 “(iii) who is designated by the law re-
8 quiring parental involvement in the minor’s
9 abortion decision as an individual to whom
10 notification, or from whom consent, is re-
11 quired; and

12 “(5) the term ‘State’ includes—

13 “(A) the District of Columbia;

14 “(B) any commonwealth, possession, or
15 other territory of the United States; and

16 “(C) any Indian tribe or reservation.

17 **“§ 2432. Transportation of minors in circumvention of**
18 **certain laws relating to abortion and in-**
19 **cest**

20 “(a) OFFENSE.—Notwithstanding section
21 2431(b)(2), whoever has committed an act of incest with
22 a minor and knowingly transports the minor across a
23 State line with the intent that the minor obtain an abor-
24 tion, shall be fined under this title or imprisoned not more
25 than 1 year, or both.

1 “(b) DEFINITIONS.—For the purposes of this section,
 2 the terms ‘abortion’, ‘minor’, and ‘State’ have the mean-
 3 ings given those terms in section 2435.”.

4 **SEC. 3. CHILD INTERSTATE ABORTION NOTIFICATION.**

5 Part I of title 18, United States Code, is amended
 6 by inserting after chapter 117A (as added by section 2)
 7 the following:

8 **“CHAPTER 117B—CHILD INTERSTATE**
 9 **ABORTION NOTIFICATION**

“Sec.

“2435. Child interstate abortion notification.

10 **“§ 2435. Child interstate abortion notification**

11 “(a) OFFENSE.—

12 “(1) GENERALLY.—A physician who knowingly
 13 performs or induces an abortion on a minor in viola-
 14 tion of the requirements of this section shall be fined
 15 under this title or imprisoned not more than 1 year,
 16 or both.

17 “(2) PARENTAL NOTIFICATION.—

18 “(A) ACTUAL NOTICE.—A physician who
 19 performs or induces an abortion on a minor
 20 who is a resident of a State other than the
 21 State in which the abortion is performed or in-
 22 duced shall provide, or cause his or her agent
 23 to provide, not less than 24 hours actual notice

1 to a parent of the minor before performing or
 2 inducing the abortion.

3 “(B) CONSTRUCTIVE NOTICE.—If actual
 4 notice to a parent under subparagraph (A) is
 5 not accomplished after a reasonable effort has
 6 been made, not less than 24 hours constructive
 7 notice shall be given to a parent of the minor
 8 before the abortion is performed or induced.

9 “(b) EXCEPTIONS.—The notification requirement
 10 under subsection (a)(2) shall not apply if—

11 “(1) the abortion is performed or induced in a
 12 State that has in force a law requiring parental in-
 13 volvement in a minor’s abortion decision and the
 14 physician complies with the requirements of that
 15 law;

16 “(2) the physician is presented with documenta-
 17 tion showing with a reasonable degree of certainty
 18 that a court in the minor’s State of residence has
 19 waived any parental notification required by the laws
 20 of that State, or has otherwise authorized that the
 21 minor be allowed to procure an abortion;

22 “(3) the minor declares in a signed written
 23 statement that she is the victim of sexual abuse, ne-
 24 glect, or physical abuse by a parent, and, before an
 25 abortion is performed on the minor, the physician

1 notifies the authorities specified to receive reports of
2 child abuse or neglect by the law of the State in
3 which the minor resides of the known or suspected
4 abuse or neglect;

5 “(4) the abortion is necessary to save the life
6 of the minor because her life was endangered by a
7 physical disorder, physical injury, or physical illness,
8 including a life endangering physical condition
9 caused by or arising from the pregnancy itself, ex-
10 cept that an exception under this paragraph shall
11 not apply unless the attending physician or an agent
12 of such physician, not later than 24 hours after com-
13 pletion of the abortion, notifies a parent of the
14 minor in writing that an abortion was performed on
15 the minor and of the circumstances that warranted
16 invocation of this paragraph; or

17 “(5) the minor is physically accompanied by a
18 person who presents the physician or his or her
19 agent with documentation showing with a reasonable
20 degree of certainty that he or she is in fact the par-
21 ent of that minor.

22 “(c) CIVIL ACTION.—Any parent who suffers harm
23 from a violation of subsection (a) may obtain appropriate
24 relief in a civil action unless the parent has committed

1 an act of incest with the minor described in subsection
2 (a).

3 “(d) DEFINITIONS.—For the purposes of this sec-
4 tion—

5 “(1) the term ‘abortion’ means the use or pre-
6 scription of any instrument, medicine, drug, or other
7 substance or device to intentionally—

8 “(A) kill the unborn child of a woman
9 known to be pregnant; or

10 “(B) prematurely terminate the pregnancy
11 of a woman known to be pregnant, with an in-
12 tention other than to—

13 “(i) increase the probability of a live
14 birth or of preserving the life or health of
15 the child after live birth; or

16 “(ii) remove a dead unborn child;

17 “(2) the term ‘actual notice’ means the giving
18 of written notice directly, in person, by the physician
19 or any agent of the physician;

20 “(3) the term ‘constructive notice’ means notice
21 that is given by certified mail, return receipt re-
22 quested, restricted delivery to the last known ad-
23 dress of the person being notified, with delivery
24 deemed to have occurred 48 hours following noon on
25 the next day subsequent to mailing on which regular

1 mail delivery takes place, excluding days on which
2 mail is not delivered;

3 “(4) the term ‘law requiring parental involve-
4 ment in a minor’s abortion decision’ means a law—

5 “(A) requiring, before an abortion is per-
6 formed on a minor, either—

7 “(i) the notification to, or consent of,
8 a parent of that minor; or

9 “(ii) proceedings in a State court; and

10 “(B) that does not provide as an alter-
11 native to the requirements described in sub-
12 paragraph (A) notification to or consent of any
13 person or entity not described in that subpara-
14 graph;

15 “(5) the term ‘minor’ means an individual
16 who—

17 “(A) has not attained the age of 18 years;
18 and

19 “(B) is not emancipated under the law of
20 the State in which the minor resides;

21 “(6) the term ‘parent’ means—

22 “(A) a parent or guardian;

23 “(B) a legal custodian; or

24 “(C) an individual standing in loco
25 parentis—

1 “(i) who has care and control of the
2 minor; and

3 “(ii) with whom the minor regularly
4 resides,

5 as determined by State law;

6 “(7) the term ‘physician’ means—

7 “(A) a doctor of medicine legally author-
8 ized to practice medicine by the State in which
9 the doctor practices medicine; or

10 “(B) any other person legally empowered
11 under State law to perform an abortion; and

12 “(8) the term ‘State’ includes—

13 “(A) the District of Columbia;

14 “(B) any commonwealth, possession, or
15 other territory of the United States; and

16 “(C) any Indian tribe or reservation.”.

17 **SEC. 4. CLERICAL AMENDMENT.**

18 The table of chapters at the beginning of part I of
19 title 18, United States Code, is amended by inserting after
20 the item relating to chapter 117 the following new items:

“117A. **Transportation of minors in circumvention of**
 certain laws relating to abortion **2431**
“117B. **Child interstate abortion notification** **2435”.**

21 **SEC. 5. SEVERABILITY AND EFFECTIVE DATE.**

22 (a) SEVERABILITY.—The provisions of this Act shall
23 be severable. If any provision of this Act, or any applica-
24 tion thereof, is found unconstitutional, that finding shall

1 not affect any provision or application of the Act not so
2 adjudicated.

3 (b) EFFECTIVE DATE.—This Act and the amend-
4 ments made by this Act shall take effect 45 days after
5 the date of enactment of this Act.

