

112TH CONGRESS
1ST SESSION

S. 167

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 25 (legislative day, JANUARY 5), 2011

Mr. ENSIGN (for himself, Mr. McCONNELL, Mr. NELSON of Nebraska, Mr. GRASSLEY, Mr. SHELBY, Mr. BURR, Mr. WICKER, Mr. THUNE, Mr. ROBERTS, Mr. CORNYN, Mr. VITTER, and Mr. GRAHAM) 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 Custody Protec-
5 tion Act”.

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

3 (a) IN GENERAL.—Title 18, United States Code, is
 4 amended by inserting after chapter 117 the following:

5 **“CHAPTER 117A—TRANSPORTATION OF**
 6 **MINORS IN CIRCUMVENTION OF CER-**
 7 **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 in-
 cest.

8 **“SEC. 2431. TRANSPORTATION OF MINORS IN CIRCUMVEN-**
 9 **TION OF CERTAIN LAWS RELATING TO ABOR-**
 10 **TION.**

11 “(a) OFFENSE.—

12 “(1) GENERALLY.—Except as provided in sub-
 13 section (b), whoever knowingly transports a minor
 14 across a State line, with the intent that such minor
 15 obtain an abortion, and thereby in fact abridges the
 16 right of a parent under a law requiring parental in-
 17 volvement in a minor’s abortion decision, in force in
 18 the State where the minor resides, shall be fined
 19 under this title or imprisoned not more than one
 20 year, or both.

21 “(2) DEFINITION.—For the purposes of this
 22 subsection, an abridgement of the right of a parent
 23 occurs if an abortion is performed on the minor, in

1 a State other than the State where the minor re-
2 sides, without the parental consent or notification, or
3 the judicial authorization, that would have been re-
4 quired by that law had the abortion been performed
5 in the State where the minor resides.

6 “(b) EXCEPTIONS.—

7 “(1) The prohibition of subsection (a) does not
8 apply if the abortion was necessary to save the life
9 of the minor because her life was endangered by a
10 physical disorder, physical injury, or physical illness,
11 including a life endangering physical condition
12 caused by or arising from the pregnancy itself.

13 “(2) A minor transported in violation of this
14 section, and any parent of that minor, may not be
15 prosecuted or sued for a violation of this section, a
16 conspiracy to violate this section, or an offense
17 under section 2 or 3 based on a violation of this sec-
18 tion.

19 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative
20 defense to a prosecution for an offense, or to a civil action,
21 based on a violation of this section that the defendant rea-
22 sonably believed, based on information the defendant ob-
23 tained directly from a parent of the minor or other compel-
24 ling facts, that before the minor obtained the abortion, the
25 parental consent or notification, or judicial authorization

1 took place that would have been required by the law re-
 2 quiring parental involvement in a minor’s abortion deci-
 3 sion, had the abortion been performed in the State where
 4 the minor resides.

5 “(d) CIVIL ACTION.—Any parent who suffers harm
 6 from a violation of subsection (a) may obtain appropriate
 7 relief in a civil action, unless the parent has committed
 8 an act of incest with the minor subject to subsection (a).

9 “(e) DEFINITIONS.—For the purposes of this sec-
 10 tion—

11 “(1) a ‘law requiring parental involvement in a
 12 minor’s abortion decision’ means a law—

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

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

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

18 “(B) that does not provide as an alter-
 19 native to the requirements described in sub-
 20 paragraph (A) notification to or consent of any
 21 person or entity who is not described in that
 22 subparagraph;

23 “(2) the term ‘parent’ means—

24 “(A) a parent or guardian;

25 “(B) a legal custodian; or

1 “(C) a person standing in loco parentis
2 who has care and control of the minor, and
3 with whom the minor regularly resides, who is
4 designated by the law requiring parental in-
5 volvement in the minor’s abortion decision as a
6 person to whom notification, or from whom con-
7 sent, is required;

8 “(3) the term ‘minor’ means an individual who
9 is not older than the maximum age requiring paren-
10 tal notification or consent, or proceedings in a State
11 court, under the law requiring parental involvement
12 in a minor’s abortion decision; and

13 “(4) the term ‘State’ includes the District of
14 Columbia and any commonwealth, possession, or
15 other territory of the United States.

16 **“SEC. 2432. TRANSPORTATION OF MINORS IN CIRCUMVEN-**
17 **TION OF CERTAIN LAWS RELATING TO IN-**
18 **CEST.**

19 “Notwithstanding section 2431(b)(2), whoever has
20 committed an act of incest with a minor and knowingly
21 transports the minor across a State line with the intent
22 that such minor obtain an abortion, shall be fined under
23 this title or imprisoned not more than one year, or both.”.

24 (b) CLERICAL AMENDMENT.—The table of chapters
25 for part I of title 18, United States Code, is amended by

1 inserting after the item relating to chapter 117 the fol-

2 lowing new item:

“117A. Transportation of minors in circumvention of certain laws relat-
ing to abortion 2431.”.

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