

105TH CONGRESS
2^D SESSION

H. R. 3682

AN ACT

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

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To amend title 18, United States Code, to prohibit taking minors across State lines to avoid 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Child Custody Protec-
3 tion Act”.

4 **SEC. 2. TRANSPORTATION OF MINORS TO AVOID CERTAIN**
5 **LAWS RELATING TO ABORTION.**

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

8 **“CHAPTER 117A—TRANSPORTATION OF**
9 **MINORS TO AVOID CERTAIN LAWS RE-**
10 **LATING TO ABORTION**

“Sec.

“2401. Transportation of minors to avoid certain laws relating to abortion.

11 **“§ 2401. Transportation of minors to avoid certain**
12 **laws relating to abortion**

13 “(a) OFFENSE.—

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

1 “(2) DEFINITION.—For the purposes of this
2 subsection, an abridgement of the right of a parent
3 occurs if an abortion is performed on the individual,
4 in a State other than the State where the individual
5 resides, without the parental consent or notification,
6 or the judicial authorization, that would have been
7 required by that law had the abortion been per-
8 formed in the State where the individual resides.

9 “(b) EXCEPTIONS.—(1) The prohibition of subsection
10 (a) does not apply if the abortion was necessary to save
11 the life of the minor because her life was endangered by
12 a physical disorder, physical injury, or physical illness, in-
13 cluding a life endangering physical condition caused by or
14 arising from the pregnancy itself.

15 “(2) An individual transported in violation of this sec-
16 tion, and any parent of that individual, may not be pros-
17 ecuted or sued for a violation of this section, a conspiracy
18 to violate this section, or an offense under section 2 or
19 3 based on a violation of this section.

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

1 abortion, the parental consent or notification, or judicial
2 authorization took place that would have been required by
3 the law requiring parental involvement in a minor's abor-
4 tion decision, had the abortion been performed in the
5 State where the individual resides.

6 “(d) CIVIL ACTION.—Any parent who suffers legal
7 harm from a violation of subsection (a) may obtain appro-
8 priate relief in a civil action.

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 is 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;
 4 who is designated by the law requiring parental in-
 5 volvement in the minor’s abortion decision as a per-
 6 son to whom notification, or from whom consent, is
 7 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 (b) CLERICAL AMENDMENT.—The table of chapters
 17 for part I of title 18, United States Code, is amended by
 18 inserting after the item relating to chapter 117 the follow-
 19 ing new item:

“117A. Transportation of minors to avoid certain laws relating to
 abortion 2401.”.

Passed the House of Representatives July 15, 1998.

Attest:

Clerk.