

# Calendar No. 472

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1645

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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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 1998

Mr. ABRAHAM (for himself, Mr. LOTT, Mr. DEWINE, Mr. INHOFE, Mr. NICKLES, Mr. COVERDELL, Mr. HELMS, Mr. COATS, Mr. SESSIONS, Mr. ENZI, Mr. CRAIG, Mr. KYL, Mr. HATCH, Mr. FAIRCLOTH, Mr. BROWNBACK, Mr. SANTORUM, Mr. MCCONNELL, Mr. HUTCHINSON, Mr. BOND, Mr. GRASSLEY, Mr. MCCAIN, Mr. GRAMS, Mr. HAGEL, Mr. BURNS, and Mr. SMITH of New Hampshire) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 16, 1998

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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## A BILL

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 MI-**  
9 **NORS 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.**—Except as provided in subsection  
14 (b), whoever knowingly transport an individual who has  
15 not attained the age of 18 years across a State line, with  
16 the intent such individual obtain an abortion, if in fact  
17 the requirements of a law, requiring parental involvement  
18 in a minor’s abortion decision, in the State where the indi-  
19 vidual resides, are not met before the individual obtains  
20 the abortion, shall be fined under this title or imprisoned  
21 not more than one year, or both.

22 “(b) **EXCEPTION.**—The prohibition of subsection (a)  
23 does not apply if the abortion was necessary to save the  
24 life of the minor because her life was endangered by a

1 physical disorder, physical injury, or physical illness, in-  
 2 cluding a life endangering physical condition caused by or  
 3 arising from the pregnancy itself.

4 “(e) CIVIL ACTION.—Any parent or guardian who  
 5 suffers legal harm from a violation of subsection (a) may  
 6 obtain appropriate relief in a civil action.

7 “(d) DEFINITIONS.—For the purposes of this sec-  
 8 tion—

9 “(1) a law requiring parental involvement in a  
 10 minor’s abortion decision is a law—

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

13 “(i) the notification to, or consent of,  
 14 a parent or guardian of that minor; or

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

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

21 “(2) the term ‘minor’ means an individual who  
 22 is not older than the maximum age requiring paren-  
 23 tal notification or consent, or proceedings in a State  
 24 court, under the law requiring parental involvement  
 25 in a minor’s abortion decision; and

1           “(3) the term ‘State’ includes the District of  
2           Columbia and any commonwealth, possession, or  
3           other territory of the United States.”.

4           (b) CLERICAL AMENDMENT.—The table of chapters  
5 for part I of title 18, United States Code, is amended by  
6 inserting after the item relating to chapter 117 the follow-  
7 ing new item:

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

8           **SECTION 1. SHORT TITLE.**

9           *This Act may be cited as the “Child Custody Protec-*  
10 *tion Act”.*

11           **SEC. 2. TRANSPORTATION OF MINORS TO AVOID CERTAIN**  
12   **LAWS RELATING TO ABORTION.**

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

15           **“CHAPTER 117A—TRANSPORTATION OF**  
16   **MINORS TO AVOID CERTAIN LAWS RE-**  
17   **LATING TO ABORTION**

          “Sec.

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

18           **“§2401. Transportation of minors to avoid certain laws relating**  
19   **to abortion**

20           “(a) *OFFENSE.*—

21                                   “(1) *GENERALLY.*—*Except as provided in sub-*  
22 *section (b), whoever knowingly transports an individ-*  
23 *ual who has not attained the age of 18 years across*

1     *a State line, with the intent that such individual ob-*  
2     *tain an abortion, and thereby in fact abridges the*  
3     *right of a parent under a law, requiring parental in-*  
4     *volvement in a minor's abortion decision, of the State*  
5     *where the individual resides, shall be fined under this*  
6     *title or imprisoned not more than one year, or both.*

7             “(2) *DEFINITION.—For the purposes of this sub-*  
8     *section, an abridgement of the right of a parent oc-*  
9     *currs if an abortion is performed on the individual, in*  
10    *a State other than the State where the individual re-*  
11    *sides, without the parental consent or notification, or*  
12    *the judicial authorization, that would have been re-*  
13    *quired by that law had the abortion been performed*  
14    *in the State where the individual resides.*

15           “(b) *EXCEPTIONS.—*

16           “(1) *The prohibition of subsection (a) does not*  
17    *apply if the abortion was necessary to save the life of*  
18    *the minor because her life was endangered by a phys-*  
19    *ical disorder, physical injury, or physical illness, in-*  
20    *cluding a life endangering physical condition caused*  
21    *by or arising from the pregnancy itself.*

22           “(2) *An individual transported in violation of*  
23    *this section, and any parent of that individual, may*  
24    *not be prosecuted or sued for a violation of this sec-*  
25    *tion, a conspiracy to violate this section, or an offense*

1        *under section 2 or 3 based on a violation of this sec-*  
2        *tion.*

3        “(c) *AFFIRMATIVE DEFENSE.—It is an affirmative de-*  
4        *fense to a prosecution for an offense, or to a civil action,*  
5        *based on a violation of this section that the defendant rea-*  
6        *sonably believed, based on information the defendant ob-*  
7        *tained directly from a parent of the individual or other*  
8        *compelling facts, that before the individual obtained the*  
9        *abortion, the parental consent or notification, or judicial*  
10       *authorization took place that would have been required by*  
11       *the law requiring parental involvement in a minor’s abor-*  
12       *tion decision, had the abortion been performed in the State*  
13       *where the individual resides.*

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

17       “(e) *DEFINITIONS.—For the purposes of this section—*

18                “(1) *a law requiring parental involvement in a*  
19                *minor’s abortion decision is a law—*

20                        “(A) *requiring, before an abortion is per-*  
21                        *formed on a minor, either—*

22                                “(i) *the notification to, or consent of, a*  
23                                *parent of that minor; or*

24                                        “(ii) *proceedings in a State court; and*

1           “(B) that does not provide as an alternative  
2           to the requirements described in subparagraph  
3           (A) notification to or consent of any person or  
4           entity who is not described in that subpara-  
5           graph;

6           “(2) the term ‘parent’ means—

7                   “(A) a parent or guardian;

8                   “(B) a legal custodian; or

9                   “(C) a person standing in loco parentis who  
10           has care and control of the minor, and with  
11           whom the minor regularly resides;

12           who is designated by the law requiring parental in-  
13           volvement in the minor’s abortion decision as a per-  
14           son to whom notification, or from whom consent, is  
15           required;

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

21           “(4) the term ‘State’ includes the District of Co-  
22           lumbia and any commonwealth, possession, or other  
23           territory of the United States.”.

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

1 *ing after the item relating to chapter 117 the following new*

2 *item:*

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