

110TH CONGRESS
2D SESSION

S. 2543

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 22 (legislative day, JANUARY 3), 2008

Mr. ENSIGN (for himself, Mr. ALEXANDER, Mr. BROWNBACK, Mr. BUNNING, Mr. COBURN, Mr. COLEMAN, Mr. CORNYN, Mrs. DOLE, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGEL, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. MCCAIN, Mr. MCCONNELL, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. THUNE, Mr. VOINOVICH, Mr. HATCH, and Mr. NELSON of Nebraska) 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 Title 18, United States Code, is amended by inserting
 4 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
 abortion.

8 **“§ 2431. Transportation of minors in circumvention of**
 9 **certain laws relating to abortion**

10 “(a) OFFENSE.—

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

20 “(2) DEFINITION.—For the purposes of this
 21 subsection, an abridgement of the right of a parent
 22 occurs if an abortion is performed or induced on the
 23 minor, in a State or a foreign nation other than the

1 State where the minor resides, without the parental
2 consent or notification, or the judicial authorization,
3 that would have been required by that law had the
4 abortion been performed in the State where the
5 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—

22 “(1) reasonably believed, based on information
23 the defendant obtained directly from a parent of the
24 minor, that before the minor obtained the abortion,
25 the parental consent or notification took place that

1 would have been required by the law requiring pa-
2 rental involvement in a minor’s abortion decision,
3 had the abortion been performed in the State where
4 the minor resides; or

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

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

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

17 “(1) the term ‘abortion’ means the use or pre-
18 scription of any instrument, medicine, drug, or any
19 other substance or device intentionally to terminate
20 the pregnancy of a female known to be pregnant,
21 with an intention other than to increase the prob-
22 ability of a live birth, to preserve the life or health
23 of the child after live birth, to terminate an ectopic
24 pregnancy, or to remove a dead unborn child who
25 died as the result of a spontaneous abortion, acci-

1 dental trauma or a criminal assault on the pregnant
2 female or her unborn child;

3 “(2) the term a ‘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 who is not described in that
14 subparagraph;

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

20 “(4) the term ‘parent’ means—

21 “(A) a parent or guardian;

22 “(B) a legal custodian; or

23 “(C) a person standing in loco parentis
24 who has care and control of the minor, and
25 with whom the minor regularly resides, who is

1 designated by the law requiring parental in-
2 volvement in the minor’s abortion decision as a
3 person to whom notification, or from whom con-
4 sent, is required; and

5 “(5) the term ‘State’ includes the District of
6 Columbia and any commonwealth, possession, or
7 other territory of the United States, and any Indian
8 tribe or reservation.

9 **“§ 2432. Transportation of minors in circumvention of**
10 **certain laws relating to abortion**

11 “Notwithstanding section 2431(b)(2), whoever has
12 committed an act of incest with a minor and knowingly
13 transports the minor across a State line with the intent
14 that such minor obtain an abortion, shall be fined under
15 this title or imprisoned not more than one year, or both.
16 For the purposes of this section, the terms ‘State’, ‘minor’,
17 and ‘abortion’ have, respectively, the definitions given
18 those terms in section 2435.”.

19 **SEC. 3. CLERICAL AMENDMENT.**

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

**“117A. Transportation of minors in circumvention of cer-
tain laws relating to abortion 2431”.**

