

109TH CONGRESS
2^D SESSION

S. 403

AMENDMENT

In the House of Representatives, U. S.,

September 26, 2006.

Resolved, That the bill from the Senate (S. 403) entitled “An Act 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”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Child Interstate Abor-*
3 *tion Notification Act”.*

4 ***SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION***

5 ***OF CERTAIN LAWS RELATING TO ABORTION.***

6 *Title 18, United States Code, is amended by inserting*
7 *after chapter 117 the following:*

8 ***“CHAPTER 117A—TRANSPORTATION OF***
9 ***MINORS IN CIRCUMVENTION OF CER-***
10 ***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.*

1 **“§2431. *Transportation of minors in circumvention of***
 2 ***certain laws relating to abortion***

3 “(a) *OFFENSE.—*

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

13 “(2) *DEFINITION.—For the purposes of this sub-*
 14 *section, an abridgement of the right of a parent oc-*
 15 *curs if an abortion is performed or induced on the*
 16 *minor, in a State or a foreign nation other than the*
 17 *State where the minor resides, without the parental*
 18 *consent or notification, or the judicial authorization,*
 19 *that would have been required by that law had the*
 20 *abortion been performed in the State where the minor*
 21 *resides.*

22 “(b) *EXCEPTIONS.—*

23 “(1) *The prohibition of subsection (a) does not*
 24 *apply if the abortion was necessary to save the life of*
 25 *the minor because her life was endangered by a phys-*
 26 *ical disorder, physical injury, or physical illness, in-*

1 *cluding a life endangering physical condition caused*
2 *by or arising from the pregnancy itself.*

3 *“(2) A minor transported in violation of this*
4 *section, and any parent of that minor, may not be*
5 *prosecuted or sued for a violation of this section, a*
6 *conspiracy to violate this section, or an offense under*
7 *section 2 or 3 based on a violation of this section.*

8 *“(c) AFFIRMATIVE DEFENSE.—It is an affirmative de-*
9 *fense to a prosecution for an offense, or to a civil action,*
10 *based on a violation of this section that the defendant—*

11 *“(1) reasonably believed, based on information*
12 *the defendant obtained directly from a parent of the*
13 *minor, that before the minor obtained the abortion,*
14 *the parental consent or notification took place that*
15 *would have been required by the law requiring paren-*
16 *tal involvement in a minor’s abortion decision, had*
17 *the abortion been performed in the State where the*
18 *minor resides; or*

19 *“(2) was presented with documentation showing*
20 *with a reasonable degree of certainty that a court in*
21 *the minor’s State of residence waived any parental*
22 *notification required by the laws of that State, or oth-*
23 *erwise authorized that the minor be allowed to pro-*
24 *cure an abortion.*

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

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

6 “(1) the term ‘abortion’ means the use or pre-
 7 scription of any instrument, medicine, drug, or any
 8 other substance or device intentionally to terminate
 9 the pregnancy of a female known to be pregnant, with
 10 an intention other than to increase the probability of
 11 a live birth, to preserve the life or health of the child
 12 after live birth, to terminate an ectopic pregnancy, or
 13 to remove a dead unborn child who died as the result
 14 of a spontaneous abortion, accidental trauma or a
 15 criminal assault on the pregnant female or her un-
 16 born child;

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

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

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

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

24 “(B) that does not provide as an alternative
 25 to the requirements described in subparagraph

1 (A) notification to or consent of any person or
2 entity who is not described in that subpara-
3 graph;

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

9 “(4) the term ‘parent’ means—

10 “(A) a parent or guardian;

11 “(B) a legal custodian; or

12 “(C) a person standing in loco parentis who
13 has care and control of the minor, and with
14 whom the minor regularly resides, who is des-
15 ignated by the law requiring parental involve-
16 ment in the minor’s abortion decision as a per-
17 son to whom notification, or from whom consent,
18 is required; and

19 “(5) the term ‘State’ includes the District of Co-
20 lumbia and any commonwealth, possession, or other
21 territory of the United States, and any Indian tribe
22 or reservation.

1 **“§2432. *Transportation of minors in circumvention of***
 2 ***certain laws relating to abortion***

3 *“Notwithstanding section 2431(b)(2), whoever has*
 4 *committed an act of incest with a minor and knowingly*
 5 *transports the minor across a State line with the intent*
 6 *that such minor obtain an abortion, shall be fined under*
 7 *this title or imprisoned not more than one year, or both.*
 8 *For the purposes of this section, the terms ‘State’, ‘minor’,*
 9 *and ‘abortion’ have, respectively, the definitions given those*
 10 *terms in section 2435.”.*

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

12 *Title 18, United States Code, is amended by inserting*
 13 *after chapter 117A the following:*

14 **“CHAPTER 117B—CHILD INTERSTATE**
 15 **ABORTION NOTIFICATION**

“Sec
“2435. Child interstate abortion notification

16 **“§2435. *Child interstate abortion notification***

17 *“(a) OFFENSE.—*

18 *“(1) GENERALLY.—A physician who knowingly*
 19 *performs or induces an abortion on a minor in viola-*
 20 *tion of the requirements of this section shall be fined*
 21 *under this title or imprisoned not more than one*
 22 *year, or both.*

23 *“(2) PARENTAL NOTIFICATION.—A physician*
 24 *who performs or induces an abortion on a minor who*

1 *is a resident of a State other than the State in which*
2 *the abortion is performed must provide, or cause his*
3 *or her agent to provide, at least 24 hours actual no-*
4 *tice to a parent of the minor before performing the*
5 *abortion. If actual notice to such parent is not pos-*
6 *sible after a reasonable effort has been made, 24 hours*
7 *constructive notice must be given to a parent.*

8 *“(b) EXCEPTIONS.—The notification requirement of*
9 *subsection (a)(2) does not apply if—*

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

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

20 *“(3) the minor declares in a signed written state-*
21 *ment that she is the victim of sexual abuse, neglect,*
22 *or physical abuse by a parent, and, before an abor-*
23 *tion is performed on the minor, the physician notifies*
24 *the authorities specified to receive reports of child*
25 *abuse or neglect by the law of the State in which the*

1 *minor resides of the known or suspected abuse or ne-*
2 *glect;*

3 *“(4) the abortion is necessary to save the life of*
4 *the minor because her life was endangered by a phys-*
5 *ical disorder, physical injury, or physical illness, in-*
6 *cluding a life endangering physical condition caused*
7 *by or arising from the pregnancy itself, or because in*
8 *the reasonable medical judgment of the minor’s at-*
9 *tending physician, the delay in performing an abor-*
10 *tion occasioned by fulfilling the prior notification re-*
11 *quirement of subsection (a)(2) would cause a substan-*
12 *tial and irreversible impairment of a major bodily*
13 *function of the minor arising from continued preg-*
14 *nancy, not including psychological or emotional con-*
15 *ditions, but an exception under this paragraph does*
16 *not apply unless the attending physician or an*
17 *agent of such physician, within 24 hours after com-*
18 *pletion of the abortion, notifies a parent in writing*
19 *that an abortion was performed on the minor and of*
20 *the circumstances that warranted invocation of this*
21 *paragraph; or*

22 *“(5) the minor is physically accompanied by a*
23 *person who presents the physician or his agent with*
24 *documentation showing with a reasonable degree of*

1 *certainty that he or she is in fact the parent of that*
2 *minor.*

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

7 “(d) *DEFINITIONS.*—*For the purposes of this section—*

8 “(1) *the term ‘abortion’ means the use or pre-*
9 *scription of any instrument, medicine, drug, or any*
10 *other substance or device intentionally to terminate*
11 *the pregnancy of a female known to be pregnant, with*
12 *an intention other than to increase the probability of*
13 *a live birth, to preserve the life or health of the child*
14 *after live birth, to terminate an ectopic pregnancy, or*
15 *to remove a dead unborn child who died as the result*
16 *of a spontaneous abortion, accidental trauma, or a*
17 *criminal assault on the pregnant female or her un-*
18 *born child;*

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

22 “(3) *the term ‘constructive notice’ means notice*
23 *that is given by certified mail, return receipt re-*
24 *quested, restricted delivery to the last known address*
25 *of the person being notified, with delivery deemed to*

1 *have occurred 48 hours following noon on the next*
2 *day subsequent to mailing on which regular mail de-*
3 *livery takes place, days on which mail is not deliv-*
4 *ered excluded;*

5 “(4) the term a ‘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, a

10 *parent of that minor; or*

11 “(ii) proceedings in a State court;

12 “(B) that does not provide as an alternative

13 *to the requirements described in subparagraph*

14 *(A) notification to or consent of any person or*

15 *entity who is not described in that subpara-*

16 *graph;*

17 “(5) the term ‘minor’ means an individual who

18 *is not older than 18 years and who is not emanci-*

19 *pated under State law;*

20 “(6) the term ‘parent’ means—

21 “(A) a parent or guardian;

22 “(B) a legal custodian; or

23 “(C) a person standing in loco parentis who

24 *has care and control of the minor, and with*

25 *whom the minor regularly resides;*

1 *as determined by State law;*

2 *“(7) the term ‘physician’ means a doctor of med-*
 3 *icine legally authorized to practice medicine by the*
 4 *State in which such doctor practices medicine, or any*
 5 *other person legally empowered under State law to*
 6 *perform an abortion; and*

7 *“(8) the term ‘State’ includes the District of Co-*
 8 *lumbia and any commonwealth, possession, or other*
 9 *territory of the United States, and any Indian tribe*
 10 *or reservation.”.*

11 **SEC. 4. CLERICAL AMENDMENT.**

12 *The table of chapters at the beginning of part I of title*
 13 *18, United States Code, is amended by inserting after the*
 14 *item relating to chapter 117 the following new items:*

- “117A. Transportation of minors in circumvention of cer-**
tain laws relating to abortion2431
- “117B. Child interstate abortion notification 2435”.**

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

16 *(a) The provisions of this Act shall be severable. If any*
 17 *provision of this Act, or any application thereof, is found*
 18 *unconstitutional, that finding shall not affect any provision*
 19 *or application of the Act not so adjudicated.*

1 *(b) This Act and the amendments made by this Act*
2 *shall take effect 45 days after the date of enactment of this*
3 *Act.*

Attest:

Clerk.