

106TH CONGRESS
1ST SESSION

S. 661

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

MARCH 18, 1999

Mr. ABRAHAM (for himself, Mr. HATCH, Mr. LOTT, Mr. SESSIONS, Mr. NICKLES, Mr. COVERDELL, Mr. CRAIG, Mr. KYL, Mr. ENZI, Mr. MCCAIN, Mr. HUTCHINSON, Mr. SANTORUM, Mr. BROWNBACK, Mr. INHOFE, Mr. SMITH of New Hampshire, Mr. HELMS, Mr. GRASSLEY, and Mr. DEWINE) 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.

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 an indi-
 13 vidual who has not attained the age of 18 years
 14 across a State line, with the intent that such indi-
 15 vidual obtain an abortion, and thereby in fact
 16 abridges the right of a parent under a law requiring
 17 parental involvement in a minor’s abortion decision,
 18 in force in the State where the individual resides,
 19 shall be fined under this title or imprisoned not
 20 more than one 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 individual,
 24 in a State other than the State where the individual

1 resides, without the parental consent or notification,
2 or the judicial authorization, that would have been
3 required by that law had the abortion been per-
4 formed in the State where the individual resides.

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

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

16 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative
17 defense to a prosecution for an offense, or to a civil action,
18 based on a violation of this section that the defendant rea-
19 sonably believed, based on information the defendant ob-
20 tained directly from a parent of the individual or other
21 compelling facts, that before the individual obtained the
22 abortion, the parental consent or notification, or judicial
23 authorization took place that would have been required by
24 the law requiring parental involvement in a minor’s abor-

1 tion decision, had the abortion been performed in the
2 State where the individual resides.

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

6 “(e) DEFINITIONS.—For the purposes of this
7 section—

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

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

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

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

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

20 “(2) 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;

1 who is designated by the law requiring parental in-
2 volvement in the minor’s abortion decision as a per-
3 son to whom notification, or from whom consent, is
4 required;

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

10 “(4) the term ‘State’ includes the District of
11 Columbia and any commonwealth, possession, or
12 other territory of the United States.”.

13 (b) CLERICAL AMENDMENT.—The table of chapters
14 for part I of title 18, United States Code, is amended by
15 inserting after the item relating to chapter 117 the fol-
16 lowing new item:

“117A. Transportation of minors in circumvention of certain laws
relating to abortion 2431.”.

