

111TH CONGRESS
1ST SESSION

H. R. 634

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 HOUSE OF REPRESENTATIVES

JANUARY 22, 2009

Ms. ROS-LEHTINEN (for herself, Mr. ADERHOLT, Mr. AKIN, Mr. ALEXANDER, Mrs. BACHMANN, Mr. BACHUS, Mr. BARTLETT, Mr. BILIRAKIS, Mrs. BLACKBURN, Mr. BLUNT, Mr. BONNER, Mr. BOOZMAN, Mr. BOUSTANY, Mr. BRADY of Texas, Mr. BROUN of Georgia, Mr. BROWN of South Carolina, Mr. BUCHANAN, Mr. BURTON of Indiana, Mr. CAMPBELL, Mr. CAO, Mr. CHAFFETZ, Mr. COLE, Mr. COBLE, Mr. CONAWAY, Mr. CRENSHAW, Mr. CULBERSON, Mr. DAVIS of Kentucky, Mr. DAVIS of Tennessee, Mr. MARIO DIAZ-BALART of Florida, Mr. EHLERS, Mr. ELLSWORTH, Mr. FLEMING, Mr. FORBES, Mr. FORTENBERRY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GALLEGLY, Mr. GARRETT of New Jersey, Mr. GINGREY of Georgia, Mr. GOHMERT, Mr. GOODLATTE, Mr. GRAVES, Mr. GUTHRIE, Mr. HALL of Texas, Mr. HARPER, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. INGLIS, Mr. JORDAN of Ohio, Mr. KING of New York, Mr. KLINE of Minnesota, Mr. LAMBORN, Mr. LATOURETTE, Mr. LATTA, Mr. LINDER, Mr. LUETKEMEYER, Mr. MANZULLO, Mr. MARCHANT, Mr. MARSHALL, Mr. MCCAUL, Mr. MCCLINTOCK, Mr. MCCOTTER, Mr. MCHENRY, Mr. MCHUGH, Mrs. MCMORRIS RODGERS, Mr. MICA, Mrs. MILLER of Michigan, Mr. MILLER of Florida, Mr. MORAN of Kansas, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. OBERSTAR, Mr. OLSON, Mr. PENCE, Mr. PITTS, Mr. PLATTS, Mr. PUTNAM, Mr. RADANOVICH, Mr. ROE of Tennessee, Mr. ROGERS of Michigan, Mr. ROSKAM, Mr. RYAN of Wisconsin, Mr. SENSENBRENNER, Mr. SCALISE, Mrs. SCHMIDT, Mr. SESSIONS, Mr. SHADEGG, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMPSON, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. TERRY, Mr. TIAHRT, Mr. TIBERI, Mr. THOMPSON of Pennsylvania, Mr. WESTMORELAND, Mr. WILSON of South Carolina, Mr. WOLF, and Mr. WITTMAN) introduced the following bill; which was 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Interstate Abortion Notification Act”.

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

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

“CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN 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.

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

“(a) OFFENSE.—

“(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the

1 right of a parent under a law requiring parental in-
2 volvement in a minor's abortion decision, in force in
3 the State where the minor resides, shall be fined
4 under this title or imprisoned not more than one
5 year, or both.

6 “(2) DEFINITION.—For the purposes of this
7 subsection, an abridgement of the right of a parent
8 occurs if an abortion is performed or induced on the
9 minor, in a State or a foreign nation other than the
10 State where the minor resides, without the parental
11 consent or notification, or the judicial authorization,
12 that would have been required by that law had the
13 abortion been performed in the State where the
14 minor resides.

15 “(b) EXCEPTIONS.—

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

22 “(2) A minor transported in violation of this
23 section, and any parent of that minor, may not be
24 prosecuted or sued for a violation of this section, a
25 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
4 defense to a prosecution for an offense, or to a civil action,
5 based on a violation of this section that the defendant—

6 “(1) reasonably believed, based on information
7 the defendant obtained directly from a parent of the
8 minor, that before the minor obtained the abortion,
9 the parental consent or notification took place that
10 would have been required by the law requiring pa-
11 rental involvement in a minor’s abortion decision,
12 had the abortion been performed in the State where
13 the minor resides; or

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

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

24 “(e) DEFINITIONS.—For the purposes of this sec-
25 tion—

1 “(1) the term ‘abortion’ means the use or pre-
2 scription of any instrument, medicine, drug, or any
3 other substance or device intentionally to terminate
4 the pregnancy of a female known to be pregnant,
5 with an intention other than to increase the prob-
6 ability of a live birth, to preserve the life or health
7 of the child after live birth, to terminate an ectopic
8 pregnancy, or to remove a dead unborn child who
9 died as the result of a spontaneous abortion, acci-
10 dental trauma or a criminal assault on the pregnant
11 female or her unborn child;

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

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

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

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

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

24 “(3) the term ‘minor’ means an individual who
25 is not older than the maximum age requiring paren-

1 tal notification or consent, or proceedings in a State
 2 court, under the law requiring parental involvement
 3 in a minor’s abortion decision;

4 “(4) the term ‘parent’ means—

5 “(A) a parent or guardian;

6 “(B) a legal custodian; or

7 “(C) a person standing in loco parentis
 8 who has care and control of the minor, and
 9 with whom the minor regularly resides, who is
 10 designated by the law requiring parental in-
 11 volvement in the minor’s abortion decision as a
 12 person to whom notification, or from whom con-
 13 sent, is required; and

14 “(5) the term ‘State’ includes the District of
 15 Columbia and any commonwealth, possession, or
 16 other territory of the United States, and any Indian
 17 tribe or reservation.

18 **“§ 2432. Transportation of minors in circumvention of**
 19 **certain laws relating to abortion**

20 “Notwithstanding section 2431(b)(2), whoever has
 21 committed an act of incest with a minor and knowingly
 22 transports the minor across a State line with the intent
 23 that such minor obtain an abortion, shall be fined under
 24 this title or imprisoned not more than one year, or both.
 25 For the purposes of this section, the terms ‘State’, ‘minor’,

1 and ‘abortion’ have, respectively, the definitions given
 2 those terms in section 2435.”.

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

4 Title 18, United States Code, is amended by inserting
 5 after chapter 117A the following:

6 **“CHAPTER 117B—CHILD INTERSTATE**
 7 **ABORTION NOTIFICATION**

“Sec.

“2435. Child interstate abortion notification.

8 **“§ 2435. Child interstate abortion notification**

9 “(a) OFFENSE.—

10 “(1) GENERALLY.—A physician who knowingly
 11 performs or induces an abortion on a minor in viola-
 12 tion of the requirements of this section shall be fined
 13 under this title or imprisoned not more than one
 14 year, or both.

15 “(2) PARENTAL NOTIFICATION.—A physician
 16 who performs or induces an abortion on a minor
 17 who is a resident of a State other than the State in
 18 which the abortion is performed must provide, or
 19 cause his or her agent to provide, at least 24 hours
 20 actual notice to a parent of the minor before per-
 21 forming the abortion. If actual notice to such parent
 22 is not possible after a reasonable effort has been
 23 made, 24 hours constructive notice must be given to
 24 a parent.

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

3 “(1) the abortion is performed or induced in a
4 State that has, in force, a law requiring parental in-
5 volvement in a minor’s abortion decision and the
6 physician complies with the requirements of that
7 law;

8 “(2) the physician is presented with documenta-
9 tion showing with a reasonable degree of certainty
10 that a court in the minor’s State of residence has
11 waived any parental notification required by the laws
12 of that State, or has otherwise authorized that the
13 minor be allowed to procure an abortion;

14 “(3) the minor declares in a signed written
15 statement that she is the victim of sexual abuse, ne-
16 glect, or physical abuse by a parent, and, before an
17 abortion is performed on the minor, the physician
18 notifies the authorities specified to receive reports of
19 child abuse or neglect by the law of the State in
20 which the minor resides of the known or suspected
21 abuse or neglect;

22 “(4) the abortion is necessary to save the life
23 of the minor because her life was endangered by a
24 physical disorder, physical injury, or physical illness,
25 including a life endangering physical condition

1 caused by or arising from the pregnancy itself, but
2 an exception under this paragraph does not apply
3 unless the attending physician or an agent of such
4 physician, within 24 hours after completion of the
5 abortion, notifies a parent in writing that an abor-
6 tion was performed on the minor and of the cir-
7 cumstances that warranted invocation of this para-
8 graph; or

9 “(5) the minor is physically accompanied by a
10 person who presents the physician or his agent with
11 documentation showing with a reasonable degree of
12 certainty that he or she is in fact the parent of that
13 minor.

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

18 “(d) DEFINITIONS.—For the purposes of this sec-
19 tion—

20 “(1) the term ‘abortion’ means the use or pre-
21 scription of any instrument, medicine, drug, or any
22 other substance or device intentionally to terminate
23 the pregnancy of a female known to be pregnant,
24 with an intention other than to increase the prob-
25 ability of a live birth, to preserve the life or health

1 of the child after live birth, to terminate an ectopic
2 pregnancy, or to remove a dead unborn child who
3 died as the result of a spontaneous abortion, acci-
4 dental trauma, or a criminal assault on the pregnant
5 female or her unborn child;

6 “(2) the term ‘actual notice’ means the giving
7 of written notice directly, in person, by the physician
8 or any agent of the physician;

9 “(3) the term ‘constructive notice’ means notice
10 that is given by certified mail, return receipt re-
11 quested, restricted delivery to the last known ad-
12 dress of the person being notified, with delivery
13 deemed to have occurred 48 hours following noon on
14 the next day subsequent to mailing on which regular
15 mail delivery takes place, days on which mail is not
16 delivered excluded;

17 “(4) 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,
22 a parent of that minor; or

23 “(ii) proceedings in a State court;

24 “(B) that does not provide as an alter-
25 native to the requirements described in sub-

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

4 “(5) the term ‘minor’ means an individual who
5 is not older than 18 years and who is not emanci-
6 pated under State law;

7 “(6) the term ‘parent’ means—

8 “(A) a parent or guardian;

9 “(B) a legal custodian; or

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

13 as determined by State law;

14 “(7) the term ‘physician’ means a doctor of
15 medicine legally authorized to practice medicine by
16 the State in which such doctor practices medicine, or
17 any other person legally empowered under State law
18 to perform an abortion; and

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

1 **SEC. 4. CLERICAL AMENDMENT.**

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

“117A. Transportation of minors in circumvention of cer-
 tain laws relating to abortion 2431
 “117B. Child interstate abortion notification 2435”.

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

6 (a) The provisions of this Act shall be severable. If
 7 any provision of this Act, or any application thereof, is
 8 found unconstitutional, that finding shall not affect any
 9 provision or application of the Act not so adjudicated.

10 (b) This Act and the amendments made by this Act
 11 shall take effect 45 days after the date of enactment of
 12 this Act.

