

114TH CONGRESS
1ST SESSION

H. R. 803

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

FEBRUARY 5, 2015

Ms. ROS-LEHTINEN (for herself, Mr. JOLLY, Mr. DIAZ-BALART, Mr. FRANKS of Arizona, Mr. DUNCAN of Tennessee, Mr. JONES, Mr. DUNCAN of South Carolina, Mr. GOSAR, Mr. POMPEO, Mr. YOHO, Mr. HUIZENGA of Michigan, Mr. COLE, Mr. FINCHER, Mr. LAMALFA, Mr. KELLY of Pennsylvania, Mr. GARRETT, Mrs. WAGNER, Mr. ADERHOLT, Mr. WILSON of South Carolina, Mr. SMITH of New Jersey, Mr. MURPHY of Pennsylvania, Mr. FARENTHOLD, Mr. WALBERG, Mr. JOHNSON of Ohio, Mr. BARLETTA, Mr. HUELSKAMP, Mr. MULLIN, Mr. CURBELO of Florida, Mr. JORDAN, Mrs. MIMI WALTERS of California, Mr. COLLINS of New York, Mr. POE of Texas, Mr. BOUSTANY, Mr. WESTMORELAND, Mrs. BLACKBURN, Mr. CHABOT, Mr. LATTA, Mr. MARCHANT, Mr. ROTHFUS, Mr. MESSER, Mr. RODNEY DAVIS of Illinois, Mr. AMASH, Mr. MILLER of Florida, Mr. WESTERMAN, Ms. JENKINS of Kansas, and Mr. ROONEY of Florida) 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.

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 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.

11 **“§ 2431. Transportation of minors in circumvention of**
12 **certain laws relating to abortion**

13 “(a) OFFENSE.—

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

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

10 “(b) EXCEPTIONS.—

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

17 “(2) A minor transported in violation of this
18 section, and any parent of that minor, may not be
19 prosecuted or sued for a violation of this section, a
20 conspiracy to violate this section, or an offense
21 under section 2 or 3 of this title based on a violation
22 of this section.

23 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative
24 defense to a prosecution for an offense, or to a civil action,
25 based on a violation of this section that the defendant—

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

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

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

19 “(e) DEFINITIONS.—For the purposes of this sec-
20 tion—

21 “(1) the term ‘abortion’ means the use or pre-
22 scription of any instrument, medicine, drug, or any
23 other substance or device—

24 “(A) to intentionally kill the unborn child
25 of a woman known to be pregnant; or

1 “(B) to intentionally prematurely termi-
2 nate the pregnancy of a woman known to be
3 pregnant, with an intention other than to in-
4 crease the probability of a live birth or of pre-
5 serving the life or health of the child after live
6 birth, or to remove a dead unborn child;

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

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

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

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

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

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

24 “(4) the term ‘parent’ means—

25 “(A) a parent or guardian;

1 “(B) a legal custodian; or

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

9 “(5) the term ‘State’ includes the District of
10 Columbia and any commonwealth, possession, or
11 other territory of the United States, and any Indian
12 tribe or reservation.

13 **“§ 2432. Transportation of minors in circumvention of**
14 **certain laws relating to abortion**

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

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

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

1 **“CHAPTER 117B—CHILD INTERSTATE**
2 **ABORTION NOTIFICATION**

“Sec.

“2435. Child interstate abortion notification.

3 **“§ 2435. Child interstate abortion notification**

4 “(a) OFFENSE.—

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

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

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

23 “(1) the abortion is performed or induced in a
24 State that has, in force, a law requiring parental in-

1 involvement in a minor's abortion decision and the
2 physician complies with the requirements of that
3 law;

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

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

18 “(4) the abortion is necessary to save the life
19 of the minor because her life was endangered by a
20 physical disorder, physical injury, or physical illness,
21 including a life endangering physical condition
22 caused by or arising from the pregnancy itself, but
23 an exception under this paragraph does not apply
24 unless the attending physician or an agent of such
25 physician, within 24 hours after completion of the

1 abortion, notifies a parent in writing that an abor-
2 tion was performed on the minor and of the cir-
3 cumstances that warranted invocation of this para-
4 graph; or

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

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

14 “(d) DEFINITIONS.—For the purposes of this sec-
15 tion—

16 “(1) the term ‘abortion’ means the use or pre-
17 scription of any instrument, medicine, drug, or any
18 other substance or device—

19 “(A) to intentionally kill the unborn child
20 of a woman known to be pregnant; or

21 “(B) to intentionally prematurely termi-
22 nate the pregnancy of a woman known to be
23 pregnant, with an intention other than to in-
24 crease the probability of a live birth or of pre-

1 serving the life or health of the child after live
2 birth, or to remove a dead unborn child;

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

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

14 “(4) the term ‘law requiring parental involve-
15 ment in a minor’s abortion decision’ means a law—

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

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

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

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

1 “(5) the term ‘minor’ means an individual who
 2 has not attained the age of 18 years and who is not
 3 emancipated under the law of the State in which the
 4 minor resides;

5 “(6) the term ‘parent’ means—

6 “(A) a parent or guardian;

7 “(B) a legal custodian; or

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

11 as determined by State law;

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

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

21 **SEC. 4. CLERICAL AMENDMENT.**

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

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

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

2 (a) The provisions of this Act shall be severable. If
3 any provision of this Act, or any application thereof, is
4 found unconstitutional, that finding shall not affect any
5 provision or application of the Act not so adjudicated.

6 (b) This Act and the amendments made by this Act
7 shall take effect 45 days after the date of enactment of
8 this Act.

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