

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for morning business.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. ABRAHAM. Mr. President, we have reached the time set aside for morning business. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I ask unanimous consent to be allowed to speak as in morning business for up to 20 minutes.

The PRESIDING OFFICER. The Senate is in morning business. The Senator has that right. Without objection, the Senator will be recognized to speak as in morning business for 20 minutes.

THE CHILD CUSTODY PROTECTION ACT

Mr. ABRAHAM. Mr. President, at present, it is our expectation tomorrow morning to be voting on cloture on a motion to proceed forward on S. 1645, the Child Custody Protection Act. It is my hope that tomorrow we will find 60 votes so we might proceed to debate that issue. The fact is, we have not had an opportunity here on the floor to have much debate about this motion to proceed, or about the issue itself, so I would like to take the time today to begin to acquaint our colleagues with this very vital piece of legislation.

Mr. President, the Child Custody Protection Act would protect State laws requiring parental involvement in a minor's important decision whether or not to undergo an abortion.

If the minor's home State has a parental involvement law this legislation would make it a Federal offense to transport that minor across State lines to obtain an abortion, unless the parents have been involved as that law requires, or the requirement has been waived by a court.

By protecting existing State laws this legislation would help protect parents' rights and the health and well-being of teen-age girls facing unexpected pregnancy.

I know, Mr. President, that the abortion issue has been strongly debated in this Chamber and, indeed, throughout our country. But I believe we all should be able to agree on the need for this legislation. Whatever one's position on the underlying issue of abortion, the protection of parental rights, of valid

State laws, and of our daughters' health and emotional well-being demand that we prevent non-parents and non-guardians from circumventing State parental involvement laws.

The rationale behind this legislation is simple, Mr. President: States that choose to institute parental involvement requirements deserve to have those requirements respected.

Mr. President, 85 percent of Americans surveyed in a 1996 Gallup poll favored requiring minors to get parental consent for an abortion. Americans quite reasonably believe that no teen should be left to face an unexpected pregnancy alone. As the Supreme Court noted in *H.L. versus Matheson*, "the medical, emotional, and psychological consequences of an abortion are serious and can be lasting; this is particularly so when the patient is immature."

I believe the American people share this realization, and also realize that parents are almost always the ones most willing and able to provide their daughters with the guidance and support they need in making the life-changing decision whether or not to undergo an abortion.

Thus it is not surprising that more than 20 States have instituted parental involvement requirements.

These laws are on the books. They have been held constitutional, and they have the support of a strong majority of the American people.

Unfortunately, parental involvement laws are being circumvented and undermined by non-parents and non-guardians taking pregnant, minor teens across State lines for secret abortions.

This is a significant problem. The abortion rights Center for Reproductive Law & Policy reports that thousands of pregnant girls are taken across State lines by adults to obtain secret abortions.

Indeed, a veritable interstate abortion industry seems to have grown up.

Abortion clinics in States without parental involvement laws are advertising in States that do have these requirements. The advertisements inform anyone who cares to know that the clinics will perform abortions on minors without parental notification or consent.

Many people are attracted by these advertisements, and the results can be tragic.

During the hearing on this bill, the Judiciary Committee heard from Joyce Farley. Mrs. Farley told us how her 12-year-old daughter was given alcohol, raped, then taken across the State lines, by the rapist's mother, for a secret abortion. Understandably, Mrs. Farley was of the view that the abortion was undertaken to destroy evidence of her daughter's rape by a 17-year-old neighbor, who committed the act.

Mrs. Farley's daughter was understandably frightened and embarrassed. She did not immediately tell her mother of either her rape or her pregnancy.

Her rapist's mother took advantage of this situation. Without telling Mrs. Farley, she drove the girl from her home in Pennsylvania, which has a parental notification law, to New York, which does not. She took the girl to an abortion clinic, lied on the forms, claiming to be the girl's mother, and waited while the girl underwent an abortion. The rapist's mother then dropped Mrs. Farley's daughter off 30 miles from her home.

This poor girl was bleeding and in pain. When she got home, Mrs. Farley asked her what was wrong and eventually was told about the abortion. She then called the New York abortion clinic and was told that the pain and bleeding were normal—to be expected. She was told to increase her daughter's medication.

Luckily for her daughter, Mrs. Farley is a nurse, so she knew that this advice was dangerously wrong. As it turned out, the abortion was incomplete and this young girl, now just 13, had to undergo another procedure to complete the abortion.

Mrs. Farley was understandably very upset at what had happened to her daughter. She also was upset at what had, and what had not, been done about it.

The man who had gotten her daughter pregnant eventually pleaded guilty to statutory rape. But the rapist's mother, who claimed she was just "helping out" by taking a by-then-13-year-old rape victim across State lines for a secret abortion, may receive no punishment at all.

The Pennsylvania Supreme Court has just accepted for review her challenge of Pennsylvania's prosecution of her under State law. She charges that Pennsylvania exceeded its constitutional authority. Moreover, courts, legislators and prosecutors face great difficulty in situations like this because it is unclear which State's laws should apply.

The actions of the rapist's mother were arguably legal in New York, even though Pennsylvania has made them illegal within that State. It is this classic conflict of laws problem that the Child Custody Protection Act would address.

Mr. President, Mrs. Farley deserves better protection than she currently receives. Her daughter certainly deserves better protection, and parents and teens all across America deserve better protection against this kind of interference in the most important and most private decisions people can make.

Any parent with minor daughters—and I have two of my own—should be concerned about what happened to Mrs. Farley, and especially what happened to her daughter.

State parental notification and consent laws exist to protect girls from predators. They also exist to protect families.

Today, any child is at significantly increased risk of drug abuse, crime,

poverty and even suicide. That is why it is crucial that we help States that want to protect the rights of American parents to be involved in important decisions affecting their children. Only by being a part of their lives can parents provide their children with the guidance they need and maintain the mutual trust necessary to teach them how to lead good, productive lives.

Parents also are almost always the people best able to support their daughters in facing an unexpected pregnancy. Bruce Lucero, a physician who has performed over 45,000 abortions and who also supports this legislation, explains the situation this way:

Parents are usually the ones who can best help their teen-ager consider her options. And whatever the girls' decision, parents can provide the necessary emotional support and financial assistance.

What is more, Lucero argues, a girl who avoids telling her parents about her pregnancy too often will wait too long, then have to:

Turn to her parents to help to pay for a . . . riskier second-trimester abortion. Also, patients who receive abortions at out-of-state clinics frequently do not return for follow-up care, which can lead to dangerous complications. And a teen-ager who has an abortion across state lines without her parents' knowledge is even more unlikely to tell them that she is having complications.

This is why we must help States that want to protect families from the consequences of secret abortions. Children must receive parental consent for even minor surgical procedures. Indeed, Mr. President, many schools now require parental permission before they will dispense aspirin to a child.

The profound, lasting physical and psychological effects of abortion demand that we protect States that guarantee parental involvement in the abortion decision, and that means seeing to it that outside parties cannot circumvent State parental notification and consent laws with impunity.

Our families deserve this protection, our State laws deserve this protection, and most especially our daughters deserve the protection provided by the Child Custody Protection Act.

I would like at this point to simply outline the provisions of the bill.

To begin with, the legislation adopts each relevant State's definition of a minor. It would deem transportation of a minor across State lines in order for that minor to obtain an abortion, in abridgement of parental rights under a State's parental involvement law, to be a misdemeanor Federal offense.

The legislation defines this abridgement of parental rights as the performance of an abortion on the minor without the parental involvement that would have been required if that minor had stayed in State.

The Federal offense applies only to the non-parental, non-guardian adult who so transported the minor. The minor who obtained the abortion and her parents are specifically exempted from civil and criminal liabilities.

Further, in this legislation "parent or legal guardian" includes an indi-

vidual standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides. In this way the bill addresses the situation of children living in the care of their relatives and other unique situations.

The legislation also includes as an affirmative defense to the misdemeanor prosecution or civil action, that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the individual or other compelling facts, that the minor had obtained appropriate consent or notification.

Anyone convicted under this legislation would be subject to a fine or imprisonment not to exceed one year, or both.

As I have said, Mr. President, this is a narrowly crafted law, intended specifically to aid in the enforcement of already existing, constitutionally valid State laws requiring parental involvement, or judicial waiver of that requirement, in any minor's decision whether or not to undergo an abortion. It is a modest law that does not seek to change States' underlying laws regarding abortion. It simply seeks to see to it that existing State parental involvement laws are protected from improper evasion and circumvention.

I am aware, however, that there are a number of arguments floating around this Chamber and elsewhere against this legislation. It is to these arguments, each and every one of which I believe is clearly inaccurate or irrelevant that I would like to turn.

First, some people have argued that this legislation is not constitutional on the grounds that it puts an improper, undue burden on the constitutional right to abortion.

This is simply not true. The Supreme Court has long upheld most State laws requiring parental involvement in minors' abortions against challenges of this type. The Child Custody Protection Act would only apply where the State has in place such a constitutional State law. A Federal law that simply helps enforce State laws that themselves do not violate the right to an abortion cannot itself violate that right.

Continuing on the issue of constitutionality, it has been argued that the Child Custody Protection Act violates the constitutional right to travel.

But this argument misconstrues this legislation, the Constitution, and the constitutional right to travel. The courts have never held that the right to travel limits Congress's power to regulate interstate commerce.

The right to travel limits States' powers to discriminate against newcomers and out-of-State residents.

It does not limit Congress' power to protect State laws by prohibiting people who would circumvent them from using the channels of interstate commerce or travel.

Presumably that is why nobody has doubted the constitutionality of the re-

cently enacted Deadbeat Parents Punishment Act, which makes it a felony for anyone to travel in interstate or foreign commerce with intent to evade a support obligation to a child or spouse. Like the Child Custody Protection Act, it is constitutional because Congress is free to withdraw the channels of interstate travel from those seeking to evade valid State laws.

Next, at a level only one step removed from constitutional issues, some have put forward the argument that this legislation would undermine the ability of States to serve as "laboratories of democracy" in our Federal system.

What this argument overlooks is that in a Federal system there will always be conflicts between the laws of different States.

And Congress has a responsibility to help resolve these conflicts in the interests of interstate commerce, and in the interest of maintaining fair and full application of the laws.

What is more, it makes sense to handle the problem in this way because these conflicts are frequently resolved in favor of application of the law of the State of residence over the law of the State where some part of the conduct at issue has occurred.

In particular, it has long been an accepted tenet of our Federal system that the State with primary policy making authority with respect to parent-child relations is the State where the parent and child reside. The Child Custody Protection Act essentially simply reinforces this well-established rule.

Finally, I have heard from a number of sources the complaint that this legislation is unfair because it would not allow grandparents or other close relatives to stand-in for absent or abusive parents.

Frankly, I find this complaint somewhat puzzling because there is nothing in the Child Custody Protection Act that in any way interferes with the proper role of grandparents and other close relatives in any child's upbringing.

Parents, close relatives and, I might add, close friends, can and should play a role in helping minor girls face an event as important as an unexpected pregnancy.

If the pregnant girl for some reason, including abuse, cannot talk to her parents on her own, her other relative or friend should help her go through her State's procedure for bypassing parental notification, or, if it is possible, intervene on her behalf with the parents.

In this way, caring relatives can make a positive difference in a girl's life.

Like most Americans, I firmly believe that most children would be lucky to have grandparents and other close relatives involved in their lives. But I do not believe that most parents would want other relatives to unilaterally take over their primary role in raising their children.

In my view, States with parental involvement laws were wise to have enacted them, for the sake of parental rights, and especially for the sake of our daughters' health. The legislation before us fulfills the Federal Government's duty to protect these State laws from widespread circumvention through interstate travel. Far from undermining our Federal system, it upholds it in a manner fully consistent with the constitutional rights of everyone involved.

A number of politicians, including President Clinton, have promised the American people that they would work to make abortions "safe, legal and rare."

The Child Custody Protection Act addresses an important question of legality. It will protect State laws from those who would break them. It would uphold the rule of law and the important role States and State laws play in our Federal system.

But an abortion conducted in violation of parental notification laws is not legal, even if performed in another State.

Earlier I quoted Bruce Lucero, a doctor who once owned an abortion clinic, in which he performed some 45,000 abortions over the course of 15 years.

Dr. Lucero remains, in his words "staunchly pro-choice." Dr. Lucero also supports this legislation.

I hope my colleagues on the other side of the abortion issue will heed the warning he gave recently when he said:

Too often, pro-choice advocates oppose laws that make common sense simply because the opposition supports or promotes them. The only way we can and should keep abortions legal is to keep them safe. To fight laws that would achieve this end does no one any good—not the pregnant teen-agers, the parents or the pro-choice movement.

Mr. President, this laws does make common sense. It will protect the health of pregnant teen-agers, and it should have the full support of the Members of this body, whatever their views on the underlying issue of abortion. It was passed in the other Chamber by an overwhelming margin. It passed the Senate Judiciary Committee and, in my view, it deserves to pass by a similar margin in the full Senate.

I urge my colleagues to vote tomorrow in support of cloture on the motion to proceed to debate this issue.

In closing, let me just say this, Mr. President. As I looked through the CONGRESSIONAL RECORD at the summation and discussion between the majority leader and Democratic leader yesterday, I was a little bit confused. I at least read the Democratic leader's statement to suggest he is of the opinion that the vote tomorrow might in some way shut off consideration of amendments and debate on this issue, but that is not the case, and I want to make sure our colleagues are aware that tomorrow's vote is simply on the motion to proceed, to permit us to begin discussing this legislation.

It is not a motion for cloture on the substantive underlying bill and, indeed, virtually all of the amendments to this

legislation that were brought in committee will still survive a motion for cloture on the underlying bill because they were germane amendments at that time and would, according to the Parliamentarian, remain germane, even if we were to have cloture invoked on the substantive legislation.

For that reason, I hope our colleagues will think this issue—the question of whether or not we will allow strangers to circumvent State parental notification and consent laws and take children across State lines for the purpose of secretive abortions—that we should at least allow this issue to be debated here in the Senate.

For that reason, I hope we will be able to invoke cloture on the legislation. And once we do that, we can have a good and thorough debate and discussion, and then pass this legislation so that families like the Farley family can be protected in the future and so that the children of America can be protected in the future and so that the families who live in States that have taken the action of passing parental involvement laws can be confident that those laws do mean something and that we in Washington are willing to support those laws and make sure that those laws are in fact enforceable.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

STATUS OF OPERATIONAL READINESS OF U.S. MILITARY FORCES

Mr. MCCAIN. Mr. President, only 8 years ago we went to war in the Persian Gulf as the most combat-ready force in the world. The value of that preparedness was clear. We won a massive victory in a few weeks over one of the largest armies in the world and we did so with remarkably few American and allied casualties. We were able to end aggression with minimum losses of civilian life and were even able to greatly reduce the casualties of our enemy. Today, our enormous preparedness, impressive military force, is beginning to evaporate.

In spite of the efforts of our services, armed services, we are having significant problems again that remind me of the very difficult period during the 1970s when the Chief of Staff of the U.S. Army came before the Congress and said we had a "hollow army." We are losing the combat readiness and edge that is an essential aspect of deterrence, defense, and the ability to repel aggression.

It is true that we have heard many reassuring words to the contrary from the administration. The fact is, however, that we are "going hollow." We are losing our ability to get there "fastest with the mostest," and the indicators are all too clear the moment we look beyond superficial indicators and the normal rhetoric of budget testimony.

Mr. President, I have heard firsthand accounts from commanders in the field and in the fleet on the deteriorating

status of the operational readiness of the U.S. military forces, including the availability of resources and training opportunities necessary to meet our national security requirements. Although the upcoming year's budget makes some strides to reverse 5 straight years of underfunding for both short-term and long-term modernization, I have serious concerns about the future state of preparedness of our units and our men and women in the military.

The tangible evidence of this trend is contained in the words of nearly all the military witnesses who have testified this past year before the Senate Committee on Armed Services as well as before our House counterparts. Their statements do not reveal a single reason why we are going hollow or a single set of answers as to how these problems can be solved.

Each service has a unique mix of readiness problems and has made different tradeoffs. At its core, however, is an alarming lack of concern on the part of the administration that repeatedly acts without regard for the most basic requirements for maintaining Armed Forces essential for our national security and promoting our national interests. The repeated and deliberate failure to match requirements, as set forth by the National Command Authority, with resources adequate to the task, compounded by the White House's unwillingness to budget for ongoing contingency peacekeeping and humanitarian operations, has over time clearly degraded military preparedness.

Not to be ignored is the role of Congress in exacerbating this situation through its exceedingly damaging practice of wasting scarce financial resources on programs for strictly parochial reasons. That practice was harmful when we were adding to the administration's budget request in the context of the 1997 balanced budget agreement. And that harm is magnified manifold.

Mr. President, I have spoken many times of the wasteful spending practices embodied in the defense appropriations bill, and I will not go through the details again now. But the fact is that a lack of a Base Closing Commission commitment, the lack of a commitment to a balanced force, the continued unnecessary and unneeded funding for especially our Guard resources, and our inability to somehow make the transition to the post-cold-war requirements of a military that is ready to move anyplace in the world on short notice, is absolutely deplorable. And as I indict the administration, Mr. President, the Congress also bears enormous responsibility for our failure as well.

In spite of the highest readiness funding in our history, we are having preparedness and readiness difficulties. Some recent examples noted by experts