

Union Calendar No. 30

109TH CONGRESS
1ST SESSION

H. R. 748

[Report No. 109–51]

To amend title 18, United States Code, to prevent the transportation of minors in circumvention of certain laws relating to abortion, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 2005

Ms. ROS-LEHTINEN (for herself, Mr. PITTS, Mr. SHIMKUS, Mr. MCCAUL of Texas, Mrs. JO ANN DAVIS of Virginia, Mr. ROGERS of Michigan, Mr. MCCOTTER, Mr. TERRY, Mr. WICKER, Mr. BAKER, Mr. WAMP, Mr. HAYES, Mr. TANCREDO, Mr. CHABOT, Mr. KING of Iowa, Mr. AKIN, Mr. PICKERING, Mr. LEWIS of Kentucky, Mr. LATOURETTE, Ms. HART, Mr. HAYWORTH, Mr. OBERSTAR, Mr. TAYLOR of North Carolina, Mr. PLATTS, Mrs. BLACKBURN, Mr. CANTOR, Mr. SMITH of New Jersey, Mr. BERRY, Mrs. NORTHUP, Mr. WILSON of South Carolina, Mr. MARIO DIAZ-BALART of Florida, Mr. GARRETT of New Jersey, Mrs. CUBIN, Mr. BUYER, Mr. MANZULLO, Mr. BLUNT, Mr. LINCOLN DIAZ-BALART of Florida, Mr. HYDE, Mr. MCHENRY, Mr. ROGERS of Alabama, Mr. RYUN of Kansas, Mr. STEARNS, Mr. DAVIS of Tennessee, Mr. TIAHRT, Mr. FERGUSON, Mr. EHLERS, Mr. JONES of North Carolina, Mr. FRANKS of Arizona, Mr. SOUDER, Ms. FOXX, Mr. WELDON of Florida, Mr. SESSIONS, Mr. STUPAK, Mr. BOEHNER, Mr. HUNTER, Mr. CHOCOLA, Mr. HOSTETTLER, Mrs. DRAKE, Mr. ALEXANDER, Mr. HOEKSTRA, Mr. BRADY of Texas, Mr. DAVIS of Kentucky, Mr. SAM JOHNSON of Texas, Mr. MARSHALL, Mr. ADERHOLT, Mr. KENNEDY of Minnesota, Mr. FORBES, Mr. PETERSON of Pennsylvania, Mr. KING of New York, Mr. BURTON of Indiana, Mr. DELAY, Mr. GREEN of Wisconsin, Mr. LATHAM, Mr. PETERSON of Minnesota, Mr. RENZI, Mr. CUNNINGHAM, Mr. NEUGEBAUER, Mr. SMITH of Texas, Mrs. MUSGRAVE, Mr. MCCRERY, Mr. ROGERS of Kentucky, Mr. PENCE, Mr. BACHUS, Mr. COSTELLO, Mrs. MYRICK, Mr. BOOZMAN, Mr. BARRETT of South Carolina, Mr. GOODLATTE, Mr. PORTMAN, Mr. BARTLETT of Maryland, Mr. PUTNAM, Mr. SULLIVAN, Mrs. MILLER of Michigan, Mr. WESTMORELAND, Miss MCMORRIS, Mr. SHUSTER, Mr. DOOLITTLE, Mrs. EMERSON, Mr. INGLIS

of South Carolina, Mr. GOODE, Mr. NEY, Mr. MCINTYRE, Mr. FOSSELLA, Mr. TIBERI, Mr. GUTKNECHT, and Mr. LAHOOD) introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 21, 2005

Additional sponsors: Mr. EVERETT, Mr. MORAN of Kansas, Mr. HERGER, Mr. TAYLOR of Mississippi, Mr. OTTER, Mr. RYAN of Wisconsin, Mr. KLINE, Mr. MCHUGH, Mr. SKELTON, Mr. SIMPSON, Mr. HALL, Mr. MILLER of Florida, Mr. FORTENBERRY, Mr. PETRI, Mr. LINDER, Mr. CAMP, Mr. BONILLA, Mr. BOUSTANY, Mr. NORWOOD, Mr. TURNER, Mr. SHADEGG, Mr. WOLF, Mr. DEAL of Georgia, and Mr. SCHWARZ of Michigan

APRIL 21, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 10, 2005]

A BILL

To amend title 18, United States Code, to prevent the transportation of minors in circumvention of certain laws relating to abortion, and for other purposes.

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 Interstate Abor-*
5 *tion Notification Act”.*

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

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

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

1 **“CHAPTER 117A—TRANSPORTATION OF**
 2 **MINORS IN CIRCUMVENTION OF CER-**
 3 **TAIN LAWS RELATING TO ABORTION**

“Sec.

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

4 **“§ 2431. *Transportation of minors in circumvention of***
 5 ***certain laws relating to abortion***

6 “(a) *OFFENSE.—*

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

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

24 “(b) *EXCEPTIONS.—*

1 “(1) *The prohibition of subsection (a) does not*
2 *apply if the abortion was necessary to save the life of*
3 *the minor because her life was endangered by a phys-*
4 *ical disorder, physical injury, or physical illness, in-*
5 *cluding a life endangering physical condition caused*
6 *by or arising from the pregnancy itself.*

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

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

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

23 “(2) *was presented with documentation showing*
24 *with a reasonable degree of certainty that a court in*
25 *the minor’s State of residence waived any parental*

1 *notification required by the laws of that State, or oth-*
2 *erwise authorized that the minor be allowed to pro-*
3 *cure an abortion.*

4 “(d) *CIVIL ACTION.*—*Any parent who suffers harm*
5 *from a violation of subsection (a) may obtain appropriate*
6 *relief in a civil action.*

7 “(e) *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, or to remove a dead unborn child who*
15 *died as the result of a spontaneous abortion, acci-*
16 *dental trauma or a criminal assault on the pregnant*
17 *female or her unborn child;*

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

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

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

24 “(ii) *proceedings in a State court; and*

1 “(B) that does not provide as an alternative
2 to the requirements described in subparagraph
3 (A) notification to or consent of any person or
4 entity who is not described in that subpara-
5 graph;

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

11 “(4) the term ‘parent’ means—

12 “(A) a parent or guardian;

13 “(B) a legal custodian; or

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

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

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

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

4 **“CHAPTER 117B—CHILD INTERSTATE**
 5 **ABORTION NOTIFICATION**

“Sec.

“2432. *Child interstate abortion notification.*

6 **“§ 2432. Child interstate abortion notification**

7 **“(a) OFFENSE.—**

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

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

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

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

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

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

19 “(4) the abortion is necessary to save the life of
20 the minor because her life was endangered by a phys-
21 ical disorder, physical injury, or physical illness, in-
22 cluding a life endangering physical condition caused
23 by or arising from the pregnancy itself.

1 “(c) *CIVIL ACTION.*—Any parent who suffers harm
2 from a violation of subsection (a) may obtain appropriate
3 relief in a civil action.

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

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

15 “(2) the term ‘actual notice’ means the giving of
16 written notice directly, in person;

17 “(3) the term ‘constructive notice’ means notice
18 that is given by certified mail, return receipt re-
19 quested, restricted delivery to the last known address
20 of the person being notified, with delivery deemed to
21 have occurred 48 hours following noon on the next
22 day subsequent to mailing on which regular mail de-
23 livery takes place, days on which mail is not deliv-
24 ered excluded;

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

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

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

7 “(ii) proceedings in a State court;

8 “(B) that does not provide as an alternative
9 to the requirements described in subparagraph
10 (A) notification to or consent of any person or
11 entity who is not described in that subpara-
12 graph;

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

16 “(6) the term ‘parent’ means—

17 “(A) a parent or guardian;

18 “(B) a legal custodian; or

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

22 as determined by State law;

23 “(7) the term ‘physician’ means a doctor of med-
24 icine legally authorized to practice medicine by the
25 State in which such doctor practices medicine, or any

1 *other person legally empowered under State law to*
 2 *perform an abortion; and*

3 *“(8) the term ‘State’ includes the District of Co-*
 4 *lumbia and any commonwealth, possession, or other*
 5 *territory of the United States.”.*

6 **SEC. 4. CLERICAL AMENDMENT.**

7 *The table of chapters at the beginning of part I of title*
 8 *18, United States Code, is amended by inserting after the*
 9 *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 2432”.

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

11 *(a) The provisions of this Act shall be severable. If any*
 12 *provision of this Act, or any application thereof, is found*
 13 *unconstitutional, that finding shall not affect any provision*
 14 *or application of the Act not so adjudicated.*

15 *(b) The provisions of this Act shall take effect upon*
 16 *enactment.*

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