116TH CONGRESS
1ST SESSION

S.

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

Mr. RUBIO (for himself, Mr. BLUNT, Mrs. HYDE-SMITH, Mr. RISCH, Mr. HAWLEY, Mr. INHOFE, Mr. LANKFORD, Mr. ROBERTS, Mr. ENZI, Ms. ERNST, Mrs. FISCHER, Mr. CRAMER, Mr. ROUND, Mr. CRUZ, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on

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 Interstate Abor-
5 tion Notification Act”.

SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION 
of certain laws relating to abortion.

Part I of 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

"See. 
"2431. Transportation of minors in circumvention of certain laws relating to 
abortion.
"2432. Transportation of minors in circumvention of certain laws relating to 
abortion and incest.

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

"(a) OFFENSE.—

"(1) GENERALLY.—Except as provided in sub-
section (b), whoever knowingly transports a minor 
across a State line, with the intent that the minor 
obtain an abortion, and thereby in fact abridges the 
right of a parent of the minor under a law requiring 
parental involvement in a minor's abortion decision, 
in force in the State in which the minor resides, 
shall be fined under this title or imprisoned not 
more than 1 year, or both.

"(2) DEFINITION.—For the purposes of this 
subsection, an abridgement of the right of a parent 
of a minor occurs if an abortion is performed or in-
duced on the minor, in a State other than the State
in which the minor resides or in a foreign country, without the parental consent or notification, or the judicial authorization, that would have been required under a law requiring parental involvement in a minor’s abortion decision had the abortion been performed in the State in which the minor resides.

“(b) Exceptions.—

“(1) LIFE-ENDANGERING CONDITIONS.—The prohibition under subsection (a) shall not apply if the abortion is necessary to save the life of the minor because her life is endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

“(2) MINORS AND PARENTS.—A minor transported in violation of this section, and any parent of that minor, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 of this title based on a violation of this section.

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

“(1) reasonably believed, based on information the defendant obtained directly from a parent of the
minor, that before the minor obtained the abortion, the parental consent or notification took place that would have been required under the law requiring parental involvement in a minor’s abortion decision, had the abortion been performed in the State in which the minor resides; or

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

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

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

“(1) the term ‘abortion’ means the use or prescription of any instrument, medicine, drug, or other substance or device to intentionally—

“(A) kill the unborn child of a woman known to be pregnant; or
“(B) prematurely terminate the pregnancy of a woman known to be pregnant, with an intention other than to—

“(i) increase the probability of a live birth or of preserving the life or health of the child after live birth; or

“(ii) remove a dead unborn child;

“(2) the term ‘law requiring parental involvement in a minor’s abortion decision’ means a law—

“(A) requiring, before an abortion is performed on a minor, either—

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

“(ii) proceedings in a State court; and

“(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity not described in that subparagraph;

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

“(4) the term ‘parent’ means—
“(A) a parent or guardian;
“(B) a legal custodian; or
“(C) an individual standing in loco parentis—
“(i) who has care and control of the minor;
“(ii) with whom the minor regularly resides; and
“(iii) who is designated by the law requiring parental involvement in the minor’s abortion decision as an individual to whom notification, or from whom consent, is required; and
“(5) the term ‘State’ includes—
“(A) the District of Columbia;
“(B) any commonwealth, possession, or other territory of the United States; and
“(C) any Indian tribe or reservation.

§ 2432. Transportation of minors in circumvention of certain laws relating to abortion and incest

“(a) Offense.—Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that the minor obtain an abort-
tion, shall be fined under this title or imprisoned not more than 1 year, or both.

“(b) DEFINITIONS.—For the purposes of this section, the terms ‘abortion’, ‘minor’, and ‘State’ have the meanings given those terms in section 2435.”.

SEC. 3. CHILD INTERSTATE ABORTION NOTIFICATION.

Part I of title 18, United States Code, is amended by inserting after chapter 117A (as added by section 2) the following:

“CHAPTER 117B—CHILD INTERSTATE ABORTION NOTIFICATION

“See.

“§ 2435. Child interstate abortion notification

“(a) OFFENSE.—

“(1) GENERALLY.—A physician who knowingly performs or induces an abortion on a minor in violation of the requirements of this section shall be fined under this title or imprisoned not more than 1 year, or both.

“(2) PARENTAL NOTIFICATION.—

“(A) ACTUAL NOTICE.—A physician who performs or induces an abortion on a minor who is a resident of a State other than the State in which the abortion is performed or induced shall provide, or cause his or her agent
to provide, not less than 24 hours actual notice

to a parent of the minor before performing or

inducing the abortion.

"(B) CONSTRUCTIVE NOTICE.—If actual

notice to a parent under subparagraph (A) is

not accomplished after a reasonable effort has

been made, not less than 24 hours constructive

notice shall be given to a parent of the minor

before the abortion is performed or induced.

"(b) EXCEPTIONS.—The notification requirement

under subsection (a)(2) shall not apply if—

"(1) the abortion is performed or induced in a

State that has in force a law requiring parental in-
volvement in a minor's abortion decision and the

physician complies with the requirements of that

law;

"(2) the physician is presented with documenta-
tion showing with a reasonable degree of certainty

that a court in the minor's State of residence has

waived any parental notification required by the laws

of that State, or has otherwise authorized that the

minor be allowed to procure an abortion;

"(3) the minor declares in a signed written

statement that she is the victim of sexual abuse, ne-
glect, or physical abuse by a parent, and, before an
abortion is performed on the minor, the physician notifies the authorities specified to receive reports of child abuse or neglect by the law of the State in which the minor resides of the known or suspected abuse or neglect;

"(4) the abortion is necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, except that an exception under this paragraph shall not apply unless the attending physician or an agent of such physician, not later than 24 hours after completion of the abortion, notifies a parent of the minor in writing that an abortion was performed on the minor and of the circumstances that warranted invocation of this paragraph; or

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

"(e) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action unless the parent has committed
an act of incest with the minor described in subsection (a).

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

“(1) the term ‘abortion’ means the use or prescription of any instrument, medicine, drug, or other substance or device to intentionally—

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

“(B) prematurely terminate the pregnancy of a woman known to be pregnant, with an intention other than to—

“(i) increase the probability of a live birth or of preserving the life or health of the child after live birth; or

“(ii) remove a dead unborn child;

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

“(3) the term ‘constructive notice’ means notice that is given by certified mail, return receipt requested, restricted delivery to the last known address of the person being notified, with delivery deemed to have occurred 48 hours following noon on the next day subsequent to mailing on which regular
mail delivery takes place, excluding days on which
mail is not delivered;

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

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

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

“(ii) proceedings in a State court; and

“(B) that does not provide as an alter-
native to the requirements described in sub-
paragraph (A) notification to or consent of any
person or entity not described in that subpara-
graph;

“(5) the term ‘minor’ means an individual
who—

“(A) has not attained the age of 18 years;

and

“(B) is not emancipated under the law of
the State in which the minor resides;

“(6) the term ‘parent’ means—

“(A) a parent or guardian;

“(B) a legal custodian; or

“(C) an individual standing in loco
parentis—
“(i) who has care and control of the
minor; and
“(ii) with whom the minor regularly
resides,
as determined by State law;
“(7) the term ‘physician’ means—
“(A) a doctor of medicine legally author-
ized to practice medicine by the State in which
the doctor practices medicine; or
“(B) any other person legally empowered
under State law to perform an abortion; and
“(8) the term ‘State’ includes—
“(A) the District of Columbia;
“(B) any commonwealth, possession, or
other territory of the United States; and
“(C) any Indian tribe or reservation.”.

SEC. 4. CLERICAL AMENDMENT.

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

SEC. 5. SEVERABILITY AND EFFECTIVE DATE.

(a) SEVERABILITY.—The provisions of this Act shall
be severable. If any provision of this Act, or any applica-
tion thereof, is found unconstitutional, that finding shall
not affect any provision or application of the Act not so adjudicated.

(b) **EFFECTIVE DATE.**—This Act and the amendments made by this Act shall take effect 45 days after the date of enactment of this Act.