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.
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.

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

§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 right of a parent under a law requiring parental involvement in a minor’s abortion decision, in force in
the State where the minor resides, shall be fined
under this title or imprisoned not more than one
year, or both.

“(2) DEFINITION.—For the purposes of this
subsection, an abridgement of the right of a parent
occurs if an abortion is performed or induced on the
minor, in a State other than the State where the
minor resides, without the parental consent or notifi-
cation, or the judicial authorization, that would have
been required by that law had the abortion been per-
formed in the State where the minor resides.

“(b) EXCEPTIONS.—

“(1) The prohibition of subsection (a) does not
apply if the abortion was 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.

“(2) 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 based on a violation of this sec-

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“(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 reasonably believed, based on information the defendant obtained directly from a parent of the minor or other compelling facts, that before the minor obtained the abortion, the parental consent or notification, or judicial authorization, took place that would have been required by the law requiring parental involvement in a minor’s abortion decision, had the abortion been performed in the State where the minor resides.

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

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

“(1) the term ‘abortion’ means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of a spontaneous
abortion, accidental trauma or a criminal assault on the pregnant female or her unborn child;

“(2) the term a ‘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 who is 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 the 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) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides, who is
designated by the law requiring parental involvement in the minor’s abortion decision as a person to whom notification, or from whom consent, is required; and

“(5) the term ‘State’ includes the District of Columbia and any commonwealth, possession, or other territory of the United States.”.

SEC. 3. CHILD INTERSTATE ABORTION NOTIFICATION.

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

“CHAPTER 117B—CHILD INTERSTATE ABORTION NOTIFICATION

§ 2432. 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 one year, or both.

“(2) PARENTAL NOTIFICATION.—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 must provide at least 24 hours actual notice to a parent of the minor before performing the abortion. If actual notice to
such parent is not possible after a reasonable effort has been made, 24 hours constructive notice must be given to a parent.

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

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

“(2) the physician is presented with documentation 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, neglect, 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; or
“(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.

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

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

“(1) the term ‘abortion’ means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma, or a criminal assault on the pregnant female or her unborn child;

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

“(3) the term ‘constructive notice’ means notice that is given by certified mail, return receipt requested, restricted delivery to the last known ad-
dress 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, days on which mail is not delivered excluded;

“(4) the term a ‘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;

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

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

“(6) the term ‘parent’ means—

“(A) a parent or guardian;

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

SEC. 4. SEVERABILITY AND EFFECTIVE DATE.
(a) The provisions of this Act shall be severable. If
any provision of this Act, or any application thereof, is
found unconstitutional, that finding shall not affect any
provision or application of the Act not so adjudicated.
(b) The provisions of this Act shall take effect upon
enactment.