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.

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 Custody Protection Act”.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. ENSIGN (for himself, Mr. HAGEL, Mr. BROWNBACK, Mr. SANTORUM, Mr. KYL, Mr. FRIST, Mrs. DOLE, Mr. SESSIONS, Mr. GRASSLEY, Mr. ALLEN, Mr. BUNNING, Mr. COBURN, Mr. DEMINT, and Mr. MCCONNELL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary
SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION

OF CERTAIN LAWS RELATING TO ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is
amended by inserting after chapter 117 the following:

“CHAPTER 117A—TRANSPORTATION OF
MINORS IN CIRCUMVENTION OF CERT-

AIN LAWS RELATING TO ABORTION

§ 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 such minor
obtain an abortion, and thereby in fact abridges the
right of a parent under a law requiring parental in-
volvement 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 on the minor, in
a State other than the State where the minor re-
resides, without the parental consent or notification, or
the judicial authorization, that would have been re-
quired by that law had the abortion been performed
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
causd 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-
tion.

“(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 rea-
onably believed, based on information the defendant ob-
tained directly from a parent of the minor or other compel-
ling 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 re-
quiring parental involvement in a minor’s abortion deci-
sion, 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 sec-
tion—

“(1) a ‘law requiring parental involvement 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 who is not described in that
subparagraph;

“(2) 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;

“(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; and

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

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

“117A. Transportation of minors in circumvention of certain laws relating to abortion ................................................................. 2431”.