

Calendar No. 157

109TH CONGRESS
1ST SESSION

H. R. 748

IN THE SENATE OF THE UNITED STATES

APRIL 28, 2005

Received

JULY 1, 2005

Read the first time

JULY 11, 2005

Read the second time and placed on the calendar

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Child Interstate Abor-
3 tion Notification Act”.

4 **SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION**
5 **OF CERTAIN LAWS RELATING TO ABORTION.**

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

8 **“CHAPTER 117A—TRANSPORTATION OF**
9 **MINORS IN CIRCUMVENTION OF CER-**
10 **TAIN LAWS RELATING TO ABORTION**

“Sec.

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

11 **“§ 2431. Transportation of minors in circumvention of**
12 **certain laws relating to abortion**

13 “(a) OFFENSE.—

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

23 “(2) DEFINITION.—For the purposes of this
24 subsection, an abridgement of the right of a parent

1 occurs if an abortion is performed or induced on the
2 minor, in a State other than the State where the
3 minor resides, without the parental consent or notifi-
4 cation, or the judicial authorization, that would have
5 been required by that law had the abortion been per-
6 formed in the State where the minor resides.

7 “(b) EXCEPTIONS.—

8 “(1) The prohibition of subsection (a) does not
9 apply if the abortion was necessary to save the life
10 of the minor because her life was endangered by a
11 physical disorder, physical injury, or physical illness,
12 including a life endangering physical condition
13 caused by or arising from the pregnancy itself.

14 “(2) A minor transported in violation of this
15 section, and any parent of that minor, may not be
16 prosecuted or sued for a violation of this section, a
17 conspiracy to violate this section, or an offense
18 under section 2 or 3 based on a violation of this sec-
19 tion.

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

23 “(1) reasonably believed, based on information
24 the defendant obtained directly from a parent of the
25 minor, that before the minor obtained the abortion,

1 the parental consent or notification took place that
2 would have been required by the law requiring pa-
3 rental involvement in a minor’s abortion decision,
4 had the abortion been performed in the State where
5 the minor resides; or

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

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

15 “(e) DEFINITIONS.—For the purposes of this sec-
16 tion—

17 “(1) the term ‘abortion’ means the use or pre-
18 scription of any instrument, medicine, drug, or any
19 other substance or device intentionally to terminate
20 the pregnancy of a female known to be pregnant
21 with an intention other than to increase the prob-
22 ability of a live birth, to preserve the life or health
23 of the child after live birth, or to remove a dead un-
24 born child who died as the result of a spontaneous

1 abortion, accidental trauma or a criminal assault on
2 the pregnant female or her unborn child;

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

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

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

9 “(ii) proceedings in a State court; and

10 “(B) that does not provide as an alter-
11 native to the requirements described in sub-
12 paragraph (A) notification to or consent of any
13 person or entity who is not described in that
14 subparagraph;

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

20 “(4) the term ‘parent’ means—

21 “(A) a parent or guardian;

22 “(B) a legal custodian; or

23 “(C) a person standing in loco parentis
24 who has care and control of the minor, and
25 with whom the minor regularly resides, who is

1 designated by the law requiring parental in-
 2 volvement in the minor’s abortion decision as a
 3 person to whom notification, or from whom con-
 4 sent, is required; and

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

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

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

11 **“CHAPTER 117B—CHILD INTERSTATE**
 12 **ABORTION NOTIFICATION**

“Sec.

“2432. Child interstate abortion notification.

13 **“§ 2432. Child interstate abortion notification**

14 **“(a) OFFENSE.—**

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

20 **“(2) PARENTAL NOTIFICATION.—**A physician
 21 who performs or induces an abortion on a minor
 22 who is a resident of a State other than the State in
 23 which the abortion is performed must provide at
 24 least 24 hours actual notice to a parent of the minor

1 before performing the abortion. If actual notice to
2 such parent is not possible after a reasonable effort
3 has been made, 24 hours constructive notice must be
4 given to a parent.

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

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

12 “(2) the physician is presented with documenta-
13 tion showing with a reasonable degree of certainty
14 that a court in the minor’s State of residence has
15 waived any parental notification required by the laws
16 of that State, or has otherwise authorized that the
17 minor be allowed to procure an abortion;

18 “(3) the minor declares in a signed written
19 statement that she is the victim of sexual abuse, ne-
20 glect, or physical abuse by a parent, and, before an
21 abortion is performed on the minor, the physician
22 notifies the authorities specified to receive reports of
23 child abuse or neglect by the law of the State in
24 which the minor resides of the known or suspected
25 abuse or neglect; or

1 “(4) the abortion is necessary to save the life
2 of the minor because her life was endangered by a
3 physical disorder, physical injury, or physical illness,
4 including a life endangering physical condition
5 caused by or arising from the pregnancy itself.

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

9 “(d) DEFINITIONS.—For the purposes of this sec-
10 tion—

11 “(1) the term ‘abortion’ means the use or pre-
12 scription of any instrument, medicine, drug, or any
13 other substance or device intentionally to terminate
14 the pregnancy of a female known to be pregnant
15 with an intention other than to increase the prob-
16 ability of a live birth, to preserve the life or health
17 of the child after live birth, or to remove a dead un-
18 born child who died as the result of a spontaneous
19 abortion, accidental trauma, or a criminal assault on
20 the pregnant female or her unborn child;

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

23 “(3) the term ‘constructive notice’ means notice
24 that is given by certified mail, return receipt re-
25 quested, restricted delivery to the last known ad-

1 dress of the person being notified, with delivery
2 deemed to have occurred 48 hours following noon on
3 the next day subsequent to mailing on which regular
4 mail delivery takes place, days on which mail is not
5 delivered excluded;

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

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

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

12 “(ii) proceedings in a State court;

13 “(B) that does not provide as an alter-
14 native to the requirements described in sub-
15 paragraph (A) notification to or consent of any
16 person or entity who is not described in that
17 subparagraph;

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

21 “(6) the term ‘parent’ means—

22 “(A) a parent or guardian;

23 “(B) a legal custodian; or

1 “(C) a person standing in loco parentis
2 who has care and control of the minor, and
3 with whom the minor regularly resides;
4 as determined by State law;

5 “(7) the term ‘physician’ means a doctor of
6 medicine legally authorized to practice medicine by
7 the State in which such doctor practices medicine, or
8 any other person legally empowered under State law
9 to perform an abortion; and

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

13 **SEC. 4. CLERICAL AMENDMENT.**

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

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

18 (a) The provisions of this Act shall be severable. If
19 any provision of this Act, or any application thereof, is
20 found unconstitutional, that finding shall not affect any
21 provision or application of the Act not so adjudicated.

1 (b) The provisions of this Act shall take effect upon
2 enactment.

Passed the House of Representatives April 27, 2005.

Attest: JEFF TRANDAHL,
Clerk.

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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.

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