

119TH CONGRESS  
2D 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.

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IN THE SENATE OF THE UNITED STATES

Mrs. MOODY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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”.

**6 SEC. 2. TRANSPORTATION OF MINORS IN CIRCUMVENTION  
7 OF CERTAIN LAWS RELATING TO ABORTION.**

8       Part I of title 18, United States Code, is amended  
9 by inserting 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.

“2432. Transportation of minors, in circumvention of certain laws relating to abortion, by individuals committing incest.

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 in which the minor resides, shall be fined  
14      under this title or imprisoned not more than 1 year,  
15      or both.

16       “(2) DEFINITION.—For the purposes of this  
17      subsection, an abridgement of the right of a parent  
18      under a law requiring parental involvement in a mi-  
19      nor’s abortion decision occurs if an abortion is per-  
20      formed or induced on the minor, in a State other  
21      than the State in which the minor resides or in a  
22      foreign country, without the parental consent or no-  
23      tification, or the judicial authorization, that would

1 have been required by that law had the abortion  
2 been performed in the State in which the minor re-  
3 sides.

4 **“(b) EXCEPTIONS.—**

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

12       **“(2) MINORS AND PARENTS.—**A minor trans-  
13 ported in violation of this section, and any parent of  
14 that minor, may not be prosecuted or sued for a vi-  
15 olation of this section, a conspiracy to violate this sec-  
16 tion, or an offense under section 2 or 3 of this title  
17 based on a violation of this section.

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

21       **“(1)** reasonably believed, based on information  
22 the defendant obtained directly from a parent of the  
23 minor, that before the minor obtained the abortion,  
24 the parental consent or notification took place that  
25 would have been required by the law requiring pa-

1       rental involvement in a minor's abortion decision,  
2       had the abortion been performed in the State in  
3       which the minor resides; or

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

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

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 other  
19       substance or device to intentionally—

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

22           “(B) prematurely terminate the pregnancy  
23       of a woman known to be pregnant, with an in-  
24       tention other than to—

4 “(ii) remove a dead unborn child;

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

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

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

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

22 “(4) the term ‘parent’ means—

23                             “(A) a parent or guardian;

1                   “(C) an individual standing in loco  
2                   parentis—

3                   “(i) who has care and control of the  
4                   minor;

5                   “(ii) with whom the minor regularly  
6                   resides; and

7                   “(iii) who is designated by the law re-  
8                   quiring parental involvement in a minor’s  
9                   abortion decision as an individual to whom  
10                   notification, or from whom consent, is re-  
11                   quired; and

12                   “(5) the term ‘State’ includes—

13                   “(A) the District of Columbia;

14                   “(B) any commonwealth, possession, or  
15                   other territory of the United States; and

16                   “(C) any Indian Tribe or reservation.

17                   **“§ 2432. Transportation of minors, in circumvention**  
18                   **of certain laws relating to abortion, by in-**  
19                   **dividuals committing incest**

20                   “(a)           OFFENSE.—Notwithstanding           section  
21                   2431(b)(2), whoever has committed an act of incest with  
22                   a minor and knowingly transports the minor across a  
23                   State line with the intent that such minor obtain an abor-  
24                   tion, shall be fined under this title or imprisoned not more  
25                   than 1 year, or both.

1       “(b) DEFINITIONS.—For the purposes of this section,  
2 the terms ‘abortion’, ‘minor’, and ‘State’ have the mean-  
3 ings given those terms in section 2435.”.

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

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

8       **“CHAPTER 117B—CHILD INTERSTATE  
9                   ABORTION NOTIFICATION**

“Sec.

“2435. Child interstate abortion notification.

10 **“§ 2435. Child interstate abortion notification**

11       “(a) OFFENSE.—

12       “(1) GENERALLY.—A physician who knowingly  
13 performs or induces an abortion on a minor in viola-  
14 tion of the requirement under paragraph (2) shall be  
15 fined under this title or imprisoned not more than  
16 1 year, or both.

17       “(2) PARENTAL NOTIFICATION.—

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

1 to a parent of the minor before performing or  
2 inducing the abortion.

3 “(B) CONSTRUCTIVE NOTICE.—If actual  
4 notice to a parent under subparagraph (A) is  
5 not accomplished after a reasonable effort has  
6 been made, not less than 24 hours constructive  
7 notice shall be given to a parent before the  
8 abortion is performed or induced.

9 “(b) EXCEPTIONS.—The notification requirement  
10 under subsection (a)(2) shall not apply if—

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

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

22 “(3) the minor declares in a signed written  
23 statement that she is the victim of sexual abuse, ne-  
24 glect, or physical abuse by a parent, and, before an  
25 abortion is performed or induced on the minor, the

1 physician notifies the authorities specified to receive  
2 reports of child abuse or neglect by the law of the  
3 State in which the minor resides of the known or  
4 suspected abuse or neglect;

5 “(4) the abortion is necessary to save the life  
6 of the minor because her life was endangered by a  
7 physical disorder, physical injury, or physical illness,  
8 including a life endangering physical condition  
9 caused by or arising from the pregnancy itself, ex-  
10 cept that an exception under this paragraph shall  
11 not apply unless the attending physician or an agent  
12 of such physician, not later than 24 hours after com-  
13 pletion of the abortion, notifies a parent in writing  
14 that an abortion was performed or induced, as appli-  
15 cable, on the minor and of the circumstances that  
16 warranted invocation of this paragraph; or

17 “(5) the minor is physically accompanied by a  
18 person who presents the physician or his or her  
19 agent with documentation showing with a reasonable  
20 degree of certainty that he or she is in fact the par-  
21 ent of that minor.

22 “(c) CIVIL ACTION.—Any parent who suffers harm  
23 from a violation of subsection (a) may obtain appropriate  
24 relief in a civil action unless the parent has committed

1 an act of incest with the minor described in subsection  
2 (a).

3 “(d) DEFINITIONS.—For the purposes of this sec-  
4 tion—

5 “(1) the term ‘abortion’ means the use or pre-  
6 scription of any instrument, medicine, drug, or other  
7 substance or device to intentionally—

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

10 “(B) prematurely terminate the pregnancy  
11 of a woman known to be pregnant, with an in-  
12 tention other than to—

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

16 “(ii) remove a dead unborn child;

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

20 “(3) the term ‘constructive notice’ means notice  
21 that is given by certified mail, return receipt re-  
22 quested, restricted delivery to the last known ad-  
23 dress of the person being notified, with delivery  
24 deemed to have occurred 48 hours following noon on  
25 the next day subsequent to mailing on which regular

1       mail delivery takes place, excluding days on which  
2       mail is not delivered;

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

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

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

21               “(6) the term ‘parent’ means—

22                   “(A) a parent or guardian;

23                   “(B) a legal custodian; or

24                   “(C) an individual standing in loco  
25       parentis—

1                     “(i) who has care and control of the  
2                     minor; and

3                     “(ii) with whom the minor regularly  
4                     resides,

5                     as determined by State law;

6                     “(7) the term ‘physician’ means—

7                     “(A) a doctor of medicine legally author-  
8                     ized to practice medicine by the State in which  
9                     such doctor practices medicine; or

10                    “(B) any other person legally empowered  
11                    under State law to perform an abortion; and

12                    “(8) the term ‘State’ includes—

13                    “(A) the District of Columbia;

14                    “(B) any commonwealth, possession, or  
15                    other territory of the United States; and

16                    “(C) any Indian Tribe or reservation.”.

17 **SEC. 4. CLERICAL AMENDMENT.**

18                    The table of chapters at the beginning of part I of  
19                    title 18, United States Code, is amended by inserting after  
20                    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”.**

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

22                    (a) SEVERABILITY.—The provisions of this Act shall  
23                    be severable. If any provision of or amendment made by  
24                    this Act, or any application thereof, is found unconstitu-

1 tional, that finding shall not affect any provision or  
2 amendment, or any application thereof, not so adju-  
3 dicated.

4 (b) EFFECTIVE DATE.—This Act and the amend-  
5 ments made by this Act shall take effect 45 days after  
6 the date of enactment of this Act.