
**TEXT OF AMENDMENT IN THE NATURE OF A SUBSTITUTE
CONSIDERED AS ADOPTED**

~~AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO S. 403~~

~~OFFERED BY MR. SENSENBRENNER~~

Strike all after the enacting clause and insert the following:

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.

"2432. 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

1 across a State line, with the intent that such minor
2 obtain an abortion, and thereby in fact abridges the
3 right of a parent under a law requiring parental in-
4 volvement in a minor's abortion decision, in force in
5 the State where the minor resides, shall be fined
6 under this title or imprisoned not more than one
7 year, or both.

8 “(2) DEFINITION.—For the purposes of this
9 subsection, an abridgement of the right of a parent
10 occurs if an abortion is performed or induced on the
11 minor, in a State or a foreign nation other than the
12 State where the minor resides, without the parental
13 consent or notification, or the judicial authorization,
14 that would have been required by that law had the
15 abortion been performed in the State where the
16 minor resides.

17 “(b) EXCEPTIONS.—

18 “(1) The prohibition of subsection (a) does not
19 apply if the abortion was necessary to save the life
20 of the minor because her life was endangered by a
21 physical disorder, physical injury, or physical illness,
22 including a life endangering physical condition
23 caused by or arising from the pregnancy itself.

24 “(2) A minor transported in violation of this
25 section, and any parent of that minor, may not be

1 prosecuted or sued for a violation of this section, a
2 conspiracy to violate this section, or an offense
3 under section 2 or 3 based on a violation of this sec-
4 tion.

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

8 “(1) reasonably believed, based on information
9 the defendant obtained directly from a parent of the
10 minor, that before the minor obtained the abortion,
11 the parental consent or notification took place that
12 would have been required by the law requiring pa-
13 rental involvement in a minor’s abortion decision,
14 had the abortion been performed in the State where
15 the minor resides; or

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

22 “(d) **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
25 an act of incest with the minor subject to subsection (a).

1 “(e) DEFINITIONS.—For the purposes of this sec-
2 tion—

3 “(1) the term ‘abortion’ means the use or pre-
4 scription of any instrument, medicine, drug, or any
5 other substance or device intentionally to terminate
6 the pregnancy of a female known to be pregnant,
7 with an intention other than to increase the prob-
8 ability of a live birth, to preserve the life or health
9 of the child after live birth, to terminate an ectopic
10 pregnancy, or to remove a dead unborn child who
11 died as the result of a spontaneous abortion, acci-
12 dental trauma or a criminal assault on the pregnant
13 female or her unborn child;

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

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

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

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

21 “(B) that does not provide as an alter-
22 native to the requirements described in sub-
23 paragraph (A) notification to or consent of any
24 person or entity who is not described in that
25 subparagraph;

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

6 “(4) the term ‘parent’ means—

7 “(A) a parent or guardian;

8 “(B) a legal custodian; or

9 “(C) a person standing in loco parentis
10 who has care and control of the minor, and
11 with whom the minor regularly resides, who is
12 designated by the law requiring parental in-
13 volvement in the minor’s abortion decision as a
14 person to whom notification, or from whom con-
15 sent, is required; and

16 “(5) the term ‘State’ includes the District of
17 Columbia and any commonwealth, possession, or
18 other territory of the United States, and any Indian
19 tribe or reservation.

20 **“§ 2432. Transportation of minors in circumvention of**
21 **certain laws relating to abortion**

22 “Notwithstanding section 2431(b)(2), whoever has
23 committed an act of incest with a minor and knowingly
24 transports the minor across a State line with the intent
25 that such minor obtain an abortion, shall be fined under

1 this title or imprisoned not more than one year, or both.
2 For the purposes of this section, the terms ‘State’, ‘minor’,
3 and ‘abortion’ have, respectively, the definitions given
4 those terms in section 2435.”

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

6 Title 18, United States Code, is amended by inserting
7 after chapter 117A 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 requirements of this section shall be fined
15 under this title or imprisoned not more than one
16 year, or both.

17 **“(2) PARENTAL NOTIFICATION.—**A physician
18 who performs or induces an abortion on a minor
19 who is a resident of a State other than the State in
20 which the abortion is performed must provide, or
21 cause his or her agent to provide, at least 24 hours
22 actual notice to a parent of the minor before per-
23 forming the abortion. If actual notice to such parent
24 is not possible after a reasonable effort has been

1 made, 24 hours constructive notice must be given to
2 a parent.

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

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

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

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

24 “(4) the abortion is necessary to save the life
25 of the minor because her life was endangered by a

1 physical disorder, physical injury, or physical illness,
2 including a life endangering physical condition
3 caused by or arising from the pregnancy itself, or
4 because in the reasonable medical judgment of the
5 minor's attending physician, the delay in performing
6 an abortion occasioned by fulfilling the prior notifi-
7 cation requirement of subsection (a)(2) would cause
8 a substantial and irreversible impairment of a major
9 bodily function of the minor arising from continued
10 pregnancy, not including psychological or emotional
11 conditions, but an exception under this paragraph
12 does not apply unless the attending physician or an
13 agent of such physician, within 24 hours after com-
14 pletion of the abortion, notifies a parent in writing
15 that an abortion was performed on the minor and of
16 the circumstances that warranted invocation of this
17 paragraph; or

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

23 “(c) CIVIL ACTION.—Any parent who suffers harm
24 from a violation of subsection (a) may obtain appropriate

1 relief in a civil action unless the parent has committed
2 an act of incest with the minor subject to subsection (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 any
7 other substance or device intentionally to terminate
8 the pregnancy of a female known to be pregnant,
9 with an intention other than to increase the prob-
10 ability of a live birth, to preserve the life or health
11 of the child after live birth, to terminate an ectopic
12 pregnancy, or to remove a dead unborn child who
13 died as the result of a spontaneous abortion, acci-
14 dental trauma, or a criminal assault on the pregnant
15 female or her unborn child;

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

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

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

3 “(4) 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;

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 who
16 is not older than 18 years and who is not emanci-
17 pated under State law;

18 “(6) the term ‘parent’ means—

19 “(A) a parent or guardian;

20 “(B) a legal custodian; or

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

24 as determined by State law;

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

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

10 **SEC. 4. CLERICAL AMENDMENT.**

11 The table of chapters at the beginning of part I of
12 title 18, United States Code, is amended by inserting after
13 the item relating to chapter 117 the following new items:
14 **“117A. Transportation of minors in circumvention of cer-
 tain laws relating to abortion2431
 “117B. Child interstate abortion notification 2435”.**

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

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

19 (b) This Act and the amendments made by this Act
20 shall take effect 45 days after the date of enactment of
21 this Act.