

113TH CONGRESS
1ST SESSION

S. 32

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.

IN THE SENATE OF THE UNITED STATES

JANUARY 22 (legislative day, JANUARY 3), 2013

Mr. PORTMAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 Custody Protec-
5 tion Act of 2013”.

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

8 (a) IN GENERAL.—Title 18, United States Code, is
9 amended 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 incest.

4 **“§ 2431. Transportation of minors in circumvention of**
 5 **certain laws relating to abortion**

6 “(a) DEFINITIONS.—In this section—

7 “(1) the term ‘law requiring parental involve-
 8 ment in a minor’s abortion decision’ means a law in
 9 force in the State in which a minor resides—

10 “(A) that requires, before an abortion is
 11 performed on the minor—

12 “(i) notification to, or consent of, a
 13 parent of the minor; or

14 “(ii) judicial authorization from a
 15 State court; and

16 “(B) that does not provide as an alter-
 17 native to the requirements described in sub-
 18 paragraph (A)—

19 “(i) notification to, or consent of, an
 20 individual who is not a parent of the
 21 minor; or

22 “(ii) authorization from an entity that
 23 is not a State court;

1 “(2) the term ‘parent’ means—

2 “(A) a parent or guardian;

3 “(B) a legal custodian; or

4 “(C) an individual standing in loco
5 parentis who has care and control of a minor,
6 with whom the minor regularly resides, and who
7 is designated by a law requiring parental in-
8 volvement in the minor’s abortion decision as
9 an individual to whom notification, or from
10 whom consent, is required;

11 “(3) the term ‘minor’ means an individual who
12 is not older than the maximum age requiring paren-
13 tal notification or consent, or judicial authorization
14 from a State court, under a law requiring parental
15 involvement in a minor’s abortion decision; and

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

19 “(b) OFFENSE.—

20 “(1) GENERALLY.—Except as provided in sub-
21 section (c), whoever knowingly transports a minor
22 across a State line, with the intent that the minor
23 obtain an abortion, and thereby in fact abridges the
24 right of a parent of the minor under a law requiring
25 parental involvement in a minor’s abortion decision,

1 shall be fined under this title or imprisoned not
2 more than 1 year, or both.

3 “(2) DEFINITION.—For purposes of this sub-
4 section, an abridgement of the right of a parent of
5 a minor occurs if an abortion is performed on the
6 minor, in a State other than the State in which the
7 minor resides, without the parental consent or notifi-
8 cation, or the judicial authorization, that would have
9 been required under a law requiring parental in-
10 volvement in a minor’s abortion decision, had the
11 abortion been performed in the State where the
12 minor resides.

13 “(c) EXCEPTIONS.—

14 “(1) LIFE-ENDANGERING CONDITIONS.—The
15 prohibition under subsection (b) shall not apply in
16 the case of an abortion that is necessary to save the
17 life of a minor because her life is endangered by a
18 physical disorder, physical injury, or physical illness,
19 including a life-endangering physical condition
20 caused by or arising from the pregnancy itself.

21 “(2) MINORS AND PARENTS.—A minor trans-
22 ported in violation of this section, and any parent of
23 the minor, may not be prosecuted or sued for a vio-
24 lation of this section, a conspiracy to violate this sec-

1 tion, or an offense under section 2 or 3 based on a
2 violation of this section.

3 “(d) AFFIRMATIVE DEFENSE.—It is an affirmative
4 defense to a prosecution for an offense, or to a civil action,
5 based on a violation of this section that the defendant rea-
6 sonably believed, based on information the defendant ob-
7 tained directly from a parent of the minor or other compel-
8 ling facts, that before the minor obtained the abortion, the
9 parental consent or notification, or judicial authorization,
10 that would have been required under the law requiring pa-
11 rental involvement in a minor’s abortion decision, had the
12 abortion been performed in the State where the minor re-
13 sides, took place.

14 “(e) CIVIL ACTION.—Any parent who suffers harm
15 from a violation of subsection (b) may obtain appropriate
16 relief in a civil action, unless the parent has committed
17 an act of incest with the minor who was transported in
18 violation of subsection (b).

19 **“§ 2432. Transportation of minors in circumvention of**
20 **certain laws relating to incest**

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

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