

116TH CONGRESS
1ST SESSION

S. 194

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 19, 2019

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 2019”.

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

3 (a) IN GENERAL.—Part I of title 18, United States
 4 Code, is amended by inserting after chapter 117 the fol-
 5 lowing:

6 **“CHAPTER 117A—TRANSPORTATION OF**
 7 **MINORS IN CIRCUMVENTION OF CER-**
 8 **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.

9 **“§ 2431. Transportation of minors in circumvention of**
 10 **certain laws relating to abortion**

11 “(a) DEFINITIONS.—In this section—

12 “(1) the term ‘law requiring parental involve-
 13 ment in a minor’s abortion decision’ means a law in
 14 force in the State in which a minor resides that—

15 “(A) requires, before an abortion is per-
 16 formed on the minor—

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

19 “(ii) judicial authorization from a
 20 State court; and

21 “(B) does not provide as an alternative to
 22 the requirements described in subparagraph
 23 (A)—

1 “(i) notification to, or consent of, an
 2 individual who is not a parent of the
 3 minor; or

4 “(ii) authorization from an entity that
 5 is not a State court;

6 “(2) the term ‘parent’ means—

7 “(A) a parent or guardian;

8 “(B) a legal custodian; or

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

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

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

24 “(b) OFFENSE.—

1 “(1) GENERALLY.—Except as provided in sub-
 2 section (c), whoever knowingly transports a minor
 3 across a State line, with the intent that the minor
 4 obtain an abortion, and thereby in fact abridges the
 5 right of a parent of the minor under a law requiring
 6 parental involvement in a minor’s abortion decision,
 7 shall be fined under this title or imprisoned not
 8 more than 1 year, or both.

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

19 “(c) EXCEPTIONS.—

20 “(1) LIFE-ENDANGERING CONDITIONS.—The
 21 prohibition under subsection (b) shall not apply in
 22 the case of an abortion that is necessary to save the
 23 life of a minor because her life is endangered by a
 24 physical disorder, physical injury, or physical illness,

1 including a life-endangering physical condition
2 caused by or arising from the pregnancy itself.

3 “(2) MINORS AND PARENTS.—A minor trans-
4 ported in violation of this section, and any parent of
5 the minor, may not be prosecuted or sued for a vio-
6 lation of this section, a conspiracy to violate this sec-
7 tion, or an offense under section 2 or 3 based on a
8 violation of this section.

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

20 “(e) CIVIL ACTION.—Any parent who suffers harm
21 from a violation of subsection (b) may obtain appropriate
22 relief in a civil action, unless the parent has committed
23 an act of incest with the minor who was transported in
24 violation of subsection (b).

1 **“§ 2432. Transportation of minors in circumvention of**
 2 **certain laws relating to incest**

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

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 9 The table of chapters for part I of title 18, United States
 10 Code, is amended by inserting after the item relating to
 11 chapter 117 the following:

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

