

117TH CONGRESS
1ST SESSION

S. 16

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, 2021

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 2021”.

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 ‘minor’ means an individual who
7 is not older than the maximum age requiring paren-
8 tal notification or consent, or judicial authorization
9 from a State court, under a law requiring parental
10 involvement in a minor’s abortion decision;

11 “(3) the term ‘parent’, with respect to a minor,
12 means—

13 “(A) a parent or guardian of the minor;

14 “(B) a legal custodian of the minor; or

15 “(C) an individual standing in loco
16 parentis—

17 “(i) who has care and control of the
18 minor;

19 “(ii) with whom the minor regularly
20 resides; and

21 “(iii) who is designated by a law re-
22 quiring parental involvement in a minor’s
23 abortion decision as an individual to whom
24 notification, or from whom consent, is re-
25 quired; and

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

4 “(b) OFFENSE.—

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

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

23 “(c) EXCEPTIONS.—

24 “(1) LIFE-ENDANGERING CONDITIONS.—The
25 prohibition under subsection (b) shall not apply in

1 the case of an abortion that is necessary to save the
2 life of a minor because her life is 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 “(2) MINORS AND PARENTS.—A minor trans-
7 ported in violation of this section, and any parent of
8 the minor, may not be prosecuted or sued for a vio-
9 lation of this section, a conspiracy to violate this sec-
10 tion, or an offense under section 2 or 3 based on a
11 violation of this section.

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

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

1 an act of incest with the minor who was transported in
2 violation of subsection (b).

3 **“§ 2432. Transportation of minors in circumvention of**
4 **certain laws relating to incest**

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

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—

11 The table of chapters for part I of title 18, United States
12 Code, is amended by inserting after the item relating to
13 chapter 117 the following:

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

