

MOTION TO RECOMMIT H.R. 8297

OFFERED BY M__ . _____

Add at the end of the bill the following:

1 **SEC. 3. TRANSPORTATION OF MINORS IN CIRCUMVENTION**
2 **OF CERTAIN LAWS RELATING TO ABORTION.**

3 Title 18, United States Code, is amended by inserting
4 after chapter 117 the following:

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

8 **“§ 2431. Transportation of minors in circumvention of**
9 **certain laws relating to abortion**

10 **“(a) OFFENSE.—**

11 **“(1) GENERALLY.—**Except as provided in sub-
12 section (b), whoever knowingly transports a minor
13 across a State line, with the intent that such minor
14 obtain an abortion, and thereby in fact abridges the
15 right of a parent under a law requiring parental in-
16 volvement in a minor’s abortion decision, in force in
17 the State where the minor resides, shall be fined

1 under this title or imprisoned not more than one
2 year, or both.

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

12 “(b) EXCEPTIONS.—

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

19 “(2) A minor transported in violation of this
20 section, and any parent of that minor, may not be
21 prosecuted or sued for a violation of this section, a
22 conspiracy to violate this section, or an offense
23 under section 2 or 3 of this title based on a violation
24 of this section.

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

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

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

18 “(d) CIVIL ACTION.—Any parent who suffers harm
19 from a violation of subsection (a) may obtain appropriate
20 relief in a civil action unless the parent has committed
21 an act of incest with the minor subject to subsection (a).

22 “(e) DEFINITIONS.—For the purposes of this sec-
23 tion—

1 “(1) the term ‘abortion’ means the use or pre-
2 scription of any instrument, medicine, drug, or any
3 other substance or device—

4 “(A) to intentionally kill the unborn child
5 of a woman known to be pregnant; or

6 “(B) to intentionally prematurely termi-
7 nate the pregnancy of a woman known to be
8 pregnant, with an intention other than to in-
9 crease the probability of a live birth or of pre-
10 serving the life or health of the child after live
11 birth, or to remove a dead unborn child;

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

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

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

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

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

24 “(3) the term ‘minor’ means an individual who
25 is not older than the maximum age requiring paren-

1 tal notification or consent, or proceedings in a State
2 court, under the law requiring parental involvement
3 in a minor’s abortion decision;

4 “(4) the term ‘parent’ means—

5 “(A) a parent or guardian;

6 “(B) a legal custodian; or

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

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

18 **“§ 2432. Transportation of minors in circumvention of**
19 **certain laws relating to abortion**

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

25 For the purposes of this section, the terms ‘State’, ‘minor’,

1 and ‘abortion’ have, respectively, the definitions given
2 those terms in section 2435.”.

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

4 Title 18, United States Code, is amended by inserting
5 after chapter 117A the following:

6 **“CHAPTER 117B—CHILD INTERSTATE**
7 **ABORTION NOTIFICATION**

“Sec.

“2435. Child interstate abortion notification.

8 **“§ 2435. Child interstate abortion notification**

9 “(a) OFFENSE.—

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

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

1 must be given to a parent before the abortion is per-
2 formed.

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, but
4 an exception under this paragraph does not apply
5 unless the attending physician or an agent of such
6 physician, within 24 hours after completion of the
7 abortion, notifies a parent in writing that an abor-
8 tion was performed on the minor and of the cir-
9 cumstances that warranted invocation of this para-
10 graph; or

11 “(5) the minor is physically accompanied by a
12 person who presents the physician or his agent with
13 documentation showing with a reasonable degree of
14 certainty that he or she is in fact the parent of that
15 minor.

16 “(c) CIVIL ACTION.—Any parent who suffers harm
17 from a violation of subsection (a) may obtain appropriate
18 relief in a civil action unless the parent has committed
19 an act of incest with the minor subject to subsection (a).

20 “(d) DEFINITIONS.—For the purposes of this sec-
21 tion—

22 “(1) the term ‘abortion’ means the use or pre-
23 scription of any instrument, medicine, drug, or any
24 other substance or device—

1 “(A) to intentionally kill the unborn child
2 of a woman known to be pregnant; or

3 “(B) to intentionally prematurely termi-
4 nate the pregnancy of a woman known to be
5 pregnant, with an intention other than to in-
6 crease the probability of a live birth or of pre-
7 serving the life or health of the child after live
8 birth, or to remove a dead unborn child;

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

12 “(3) the term ‘constructive notice’ means notice
13 that is given by certified mail, return receipt re-
14 quested, restricted delivery to the last known ad-
15 dress of the person being notified, with delivery
16 deemed to have occurred 48 hours following noon on
17 the next day subsequent to mailing on which regular
18 mail delivery takes place, days on which mail is not
19 delivered excluded;

20 “(4) the term ‘law requiring parental involve-
21 ment in a minor’s abortion decision’ means a law—

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

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

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

2 “(B) that does not provide as an alter-
3 native to the requirements described in sub-
4 paragraph (A) notification to or consent of any
5 person or entity who is not described in that
6 subparagraph;

7 “(5) the term ‘minor’ means an individual who
8 has not attained the age of 18 years and who is not
9 emancipated under the law of the State in which the
10 minor resides;

11 “(6) the term ‘parent’ means—

12 “(A) a parent or guardian;

13 “(B) a legal custodian; or

14 “(C) a person standing in loco parentis
15 who has care and control of the minor, and
16 with whom the minor regularly resides,

17 as determined by State law;

18 “(7) the term ‘physician’ means a doctor of
19 medicine legally authorized to practice medicine by
20 the State in which such doctor practices medicine, or
21 any other person legally empowered under State law
22 to perform an abortion; and

23 “(8) the term ‘State’ includes the District of
24 Columbia and any commonwealth, possession, or

1 other territory of the United States, and any Indian
2 tribe or reservation.”.

3 **SEC. 5. CLERICAL AMENDMENT.**

4 The table of chapters at the beginning of part I of
5 title 18, United States Code, is amended by inserting after
6 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”.

7 **SEC. 6. SEVERABILITY AND EFFECTIVE DATE.**

8 (a) The provisions of this Act shall be severable. If
9 any provision of this Act, or any application thereof, is
10 found unconstitutional, that finding shall not affect any
11 provision or application of the Act not so adjudicated.

12 (b) This Act and the amendments made by this Act
13 shall take effect 45 days after the date of enactment of
14 this Act.

