

PROVIDING FOR CONSIDERATION OF S. 403, CHILD  
CUSTODY PROTECTION ACT

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SEPTEMBER 25, 2006.—Referred to the House Calendar and ordered to be printed

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Mr. GINGREY, from the Committee on Rules,  
submitted the following

R E P O R T

[To accompany H. Res. 1039]

The Committee on Rules, having had under consideration House Resolution 1039, by a nonrecord vote, reports the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of S. 403, the Child Custody Protection Act, under a closed rule. The rule provides one hour of debate in the House equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute printed in this report shall be considered as adopted. Finally, the rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The Committee on Rules is not aware of any points of order against consideration of the Senate bill. The waiver of all points of order against consideration is prophylactic in nature.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

*Rules Committee record vote No. 244*

Date: September 25, 2006.

Measure: S. 403, Child Custody Protection Act.

Motion by: Mrs. Slaughter.

Summary of motion: To report an open rule.

Results: Defeated 4 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Matsui—Yea; Dreier—Nay.

SUMMARY OF AMENDMENT IN THE NATURE OF A SUBSTITUTE  
CONSIDERED AS ADOPTED

Sensenbrenner (WI): Amendment in the nature of a substitute. Substantially similar to H.R. 748 (passed House 270–157 in April, 2005) with the following changes: (1) contains Senate clarifying provisions, which prevent a parent who has committed incest from being able to obtain money damages under the bill's provisions. (2) makes an exception to the notification requirement if a parent is physically present when the minor shows up to get the abortion, and makes clear that the parental notification may be provided by an agent of the abortionist. Also makes a technical change to the definition of "abortion" to exclude treatment for potentially dangerous "ectopic" pregnancies and creates a new "medical emergency exception." Also makes clear that the bill applies when state lines are crossed to enter any foreign nation or Native American land.

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

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Child Interstate Abortion Notification Act".

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

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

**"CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN 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.

**"§ 2431. Transportation of minors in circumvention of certain laws relating to abortion**

"(a) OFFENSE.—

"(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the

State where the minor resides, shall be fined under this title or imprisoned not more than one year, or both.

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

“(b) EXCEPTIONS.—

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

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

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

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

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

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

“(e) DEFINITIONS.—For the purposes of this section—

“(1) the term ‘abortion’ means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to terminate an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma or a criminal assault on the pregnant female or her unborn child;

“(2) the term a ‘law requiring parental involvement in a minor’s abortion decision’ means a law—

“(A) requiring, before an abortion is performed on a minor, either—

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

“(ii) proceedings in a State court; and

“(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

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

“(4) the term ‘parent’ means—

“(A) a parent or guardian;

“(B) a legal custodian; or

“(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides, who is designated by the law requiring parental involvement in the minor’s abortion decision as a person to whom notification, or from whom consent, is required; and

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

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

“Notwithstanding section 2431(b)(2), whoever has committed an act of incest with a minor and knowingly transports the minor across a State line with the intent that such minor obtain an abortion, shall be fined under this title or imprisoned not more than one year, or both. For the purposes of this section, the terms ‘State’, ‘minor’, and ‘abortion’ have, respectively, the definitions given those terms in section 2435.”.

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

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

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

“Sec

“2435. Child interstate abortion notification

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

“(a) OFFENSE.—

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

“(2) PARENTAL NOTIFICATION.—A physician who performs or induces an abortion on a minor who is a resident of a State other than the State in which the abortion is performed must provide, or cause his or her agent to provide, at least 24 hours actual notice to a parent of the minor before performing the abortion. If actual notice to such parent is not possible after a reasonable effort has been made, 24 hours constructive notice must be given to a parent.

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

“(1) the abortion is performed or induced in a State that has, in force, a law requiring parental involvement in a minor’s abortion decision and the physician complies with the requirements of that law;

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

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

“(4) the abortion is necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself, or because in the reasonable medical judgment of the minor’s attending physician, the delay in performing an abortion occasioned by fulfilling the prior notification requirement of subsection (a)(2) would cause a substantial and irreversible impairment of a major bodily function of the minor arising from continued pregnancy, not including psychological or emotional conditions, but an exception under this paragraph does not apply unless the attending physician or an agent of such physician, within 24 hours after completion of the abortion, notifies a parent in writing that an abortion was performed on the minor and of the circumstances that warranted invocation of this paragraph; or

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

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

“(d) DEFINITIONS.—For the purposes of this section—

“(1) the term ‘abortion’ means the use or prescription of any instrument, medicine, drug, or any other substance or device intentionally to terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, to terminate an ectopic pregnancy, or to remove a dead unborn child who died as the result of a spontaneous abortion, accidental trauma, or a criminal assault on the pregnant female or her unborn child;

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

“(3) the term ‘constructive notice’ means notice that is given by certified mail, return receipt requested, restricted delivery to the last known address of the person being notified, with de-

livery deemed to have occurred 48 hours following noon on the next day subsequent to mailing on which regular mail delivery takes place, days on which mail is not delivered excluded;

“(4) the term a ‘law requiring parental involvement in a minor’s abortion decision’ means a law—

“(A) requiring, before an abortion is performed on a minor, either—

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

“(ii) proceedings in a State court;

“(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

“(5) the term ‘minor’ means an individual who is not older than 18 years and who is not emancipated under State law;

“(6) the term ‘parent’ means—

“(A) a parent or guardian;

“(B) a legal custodian; or

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

as determined by State law;

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

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

#### SEC. 4. CLERICAL AMENDMENT.

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

#### SEC. 5. SEVERABILITY AND EFFECTIVE DATE.

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

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

#### RESOLUTION

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (S. 403) 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. The amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as

read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to commit with or without instructions.

