

112TH CONGRESS
1ST SESSION

S. 1005

To provide for parental notification and intervention in the case of a minor seeking an abortion.

IN THE SENATE OF THE UNITED STATES

MAY 16, 2011

Mr. BOOZMAN (for himself, Mr. GRAHAM, Mr. RISCH, Mr. COATS, Mr. THUNE, and Mr. JOHANNIS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for parental notification and intervention in the case of a minor seeking an abortion.

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 “Parental Notification
5 and Intervention Act of 2011”.

6 **SEC. 2. PARENTAL NOTIFICATION.**

7 (a) It shall be unlawful for any person or organization
8 to perform any abortion on an unemancipated minor
9 under the age of 18, to permit the facilities of the entity
10 to be used to perform any abortion on such a minor, or

1 to assist in the performance of any abortion on such a
2 minor, if the person or organization has failed to comply
3 with the following requirements:

4 (1) Unless there is clear and convincing evi-
5 dence of physical abuse of the minor by a parent,
6 written notification has been provided to each parent
7 of the minor, informing each parent that an abortion
8 has been requested for the minor.

9 (2) There is compliance with a 96-hour waiting
10 period after notice has been received by, subject to
11 paragraph (1), each parent of the minor before the
12 abortion may be performed.

13 (3) In the case of an action brought by a parent
14 of such minor pursuant to section 3, with respect to
15 the performance of such abortion, the person or or-
16 ganization shall not perform such abortion unless
17 and until there is a final judgement pursuant to
18 such section that granting permanent relief to enjoin
19 the abortion would be unlawful.

20 (b) Whoever violates the provisions of subsection (a)
21 of this section shall be fined not more than \$1,000,000,
22 or imprisoned not more than 10 years, or both.

23 (c) The provisions of this section shall not apply if,
24 with respect to an unemancipated minor for whom an
25 abortion is sought, a defense or affirmative defense exists

1 which would be applicable to other provisions of title 18,
2 United States Code. For purposes of the previous sen-
3 tence, such a defense or affirmative defense shall not apply
4 unless a physician other than the physician with principal
5 responsibility for making the decision to perform the abor-
6 tion makes a determination that—

7 (1) a medical emergency exists in which an
8 abortion on the minor is necessary due to a grave,
9 physical disorder or disease of the minor that would,
10 with reasonable medical certainty, cause the death of
11 the minor if an abortion is not performed;

12 (2) parental notification is not possible as a re-
13 sult of the medical emergency; and

14 (3) certifications regarding compliance with
15 paragraphs (1) and (2) of this subsection have been
16 entered in the medical records of the minor, together
17 with the reasons upon which the determinations are
18 based, including a statement of relevant clinical find-
19 ings.

20 (d) For purposes of this section, any parental notifi-
21 cation provided to comply with the provisions of subsection
22 (a) shall be provided through the manner described in
23 paragraph (1), or through the manner described in para-
24 graph (2), as follows:

1 (1) The notification shall be provided through
2 certified mail in accordance with the following proce-
3 dures:

4 (A) The notification shall be addressed to
5 the parent of the unemancipated minor.

6 (B) The address used shall be the dwelling
7 or usual place of abode of the parent.

8 (C) Return receipt shall be requested.

9 (D) Delivery shall be restricted to the par-
10 ent.

11 (2) The notification shall be delivered person-
12 ally to the parent.

13 (e) For purposes of this section, the term “parent”
14 includes, but is not limited to, any legal guardian of the
15 child.

16 **SEC. 3. PARENTAL INTERVENTION.**

17 Any parent of a minor required to be notified pursu-
18 ant to section 2 may bring, in the district court of the
19 United States where the parent resides or where the
20 unemancipated minor is located, an action to bar the per-
21 formance of an abortion on such minor. The court shall
22 issue an injunction barring the performance of the abor-
23 tion until the issue has been adjudicated and the judgment
24 is final. The court shall issue relief permanently enjoining

1 the abortion unless the court determines that granting
2 such relief would be unlawful.

3 **SEC. 4. EFFECTIVE DATE AND SEVERABILITY.**

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

8 (b) The provisions of this Act shall take effect imme-
9 diately upon enactment.

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