



Jon Kyl, Chairman

347 Russell Senate Office Building
Washington, DC 20510
202-224-2946
<http://rpc.senate.gov>

No. 58

September 28, 2006

S. 403—Child Custody Protection Act (with House Amendment)

Passed by the Senate on July 25, 2006; passed by the House on September 26 with an amendment in the nature of a substitute. Senate motion to concur in the House amendment with amendments and a motion to invoke cloture were entered on September 27.

Noteworthy

- The Senate passed S. 403, the Child Custody Protection Act (“CCPA”), by a vote of 65-34, on July 25, 2006. [See Vote # 216, RPC Legislative Notice #47 (July 19, 2006), and debate in *Congressional Record* at S8151-88.]
- The House had previously passed a similar bill, the Child Interstate Abortion Notification Act (“CIANA”), H.R. 748, on April 27, 2005, by a vote of 270-157. [See Vote #144.]
- Efforts to reconcile the two bills were thwarted when Senator Richard Durbin repeatedly objected to efforts to go to conference with the House.
- On September 26, the House passed S. 403 with a substitute amendment. That substitute amendment includes the CCPA as it passed the Senate and the additional liability provisions embodied in CIANA.
- On September 27, Senator Robert Bennett (on behalf of the Majority Leader) moved to concur in the House amendment to S. 403 and filed first and second degree amendments to that motion. Senator Bennett then filed a cloture petition on that motion to concur. *Under the provisions of Rule XXII, the vote on that cloture motion will be Friday, September 29.*
- S. 403 (as introduced and as it passed the Senate) prohibits transporting a minor across state lines to obtain an abortion if doing so abridges a parental notification or consent statute in the minor’s residing state; exception is given if the abortion is necessary to save the minor’s life.
- The CIANA provisions require an abortionist to give 24 hours’ notice to a parent of the minor from another State before performing the abortion. Several exceptions are made, including exceptions related to parental abuse and the life and bodily health of the mother.
- At least 37 states have enacted statutes imposing legal obligations on pregnant minors to notify or gain the consent of their parents before getting an abortion, and public opinion polls consistently show less than 20 percent opposition to parental involvement in their daughters’ abortion decisions.

Background

The RPC released a Legislative Notice regarding S. 403 on July 19, 2006. The background section of that release discusses the rationale for this legislation, including the need for parental involvement in minors' abortion decisions, the widespread public support for laws that protect parental rights in this area, the available evidence of interstate evasion of parental involvement laws, and constitutional considerations. That Legislative Notice is available in SR-347 and on the Internet at <http://rpc.senate.gov/files/L47ChildcCustodyBB071906.pdf>.

Bill Provisions

Section 1. This section provides a short title for the bill.

Section 2. This section is the text of S. 403, the CCPA, as passed by the Senate on July 25, 2006, by a vote of 65-34. It contains one operative title, proposed 18 U.S.C. § 2431. The operative statutory language is in proposed section 2431(a)(1):

[W]hoever 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.

The section provides an exception to subsection (a)(1) if the abortion was necessary to save the life of the minor, and it prohibits prosecution or fine of a transported minor and her parents. This section also includes the Ensign/Boxer amendment, adopted by the Senate in July, which ensures that an incestuous father who impregnates his daughter cannot sue under the Act and can be prosecuted for transporting his daughter across a state line for an abortion.

Section 3. This section is the text of H.R. 748, CIANA, with minor changes to the version that passed the House on April 27, 2005, by a vote of 270-157. It imposes a fine and/or prison term of up to one year on an abortionist who performs or induces an abortion on an out-of-state minor without providing at least 24 hours' notice to that minor's parent. The section provides exception to the notification requirement if: (1) the physician complies with parental notification requirements in the physician's state; (2) the physician is given documentation that a court in the minor's state of residence has waived parental notification or otherwise authorized the minor's abortion; (3) the minor provides a written statement that she is the victim of sexual abuse, neglect, or physical abuse by a parent, and the physician notifies appropriate state officials of such abuse; (4) the abortion is necessary to save the life of the minor; or the minor is physically accompanied by her parent.

Section 4. This section provides a severability clause and effective date.