HB378

945YMPB-1

By Representatives Gidley, Lamb, Harrison, DuBose, Shaver, Givens, Mooney, Rigsby, Hulsey

RFD: Judiciary

First Read: 21-Mar-24

SYNOPSIS:

Under existing law, a physician may not perform an abortion upon an unemancipated minor unless the physician first obtains written consent from the minor's parent or guardian. Existing law does not require the consent of a minor's parent if the minor successfully receives a waiver of the consent requirement from the court or there is a medical emergency requiring an immediate abortion.

This bill would provide that it is a Class A misdemeanor for any person, with the intent to conceal an abortion from a minor's parents or guardian, to harbor or transport a minor girl and obtain, or aid and abet her in obtaining, an abortion or abortion-inducing drug.

This bill would not apply in the case of a medical emergency or a judicial waiver of the consent requirement, and would not authorize criminal penalties or civil liability against a minor girl.

This bill would create an affirmative defense if the minor girl's parent or guardian consents to the harboring or transporting.

This bill would provide the parent or guardian of a minor girl with the right to bring a cause of action against any person who harbors or transports a

minor girl to obtain, or aid and abet in obtaining, an abortion or abortion-inducing drug for that minor girl.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the section. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL

TO BE ENTITLED

AN ACT

Relating to abortion; to create the Safeguarding Teens from Out-of-State Abortion Procedures (STOP) Act; to provide

Legislative findings; to prohibit the harboring or transporting of a minor girl, without the knowledge of her parents or guardian, in order to obtain or aid or abet her in obtaining an abortion or abortion-inducing drug; to provide exceptions; to provide criminal penalties and affirmative defenses; to authorize certain civil remedies for a violation; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Safeguarding Teens from Out-of-State Abortion Procedures (STOP) Act.

Section 2. The Legislature finds and declares that:

(1) The medical, emotional, and psychological consequences of abortion are often serious and can be lasting, particularly when the patient is young or immature.

(2) Parents and guardians usually possess information essential to a health care provider's exercise of his or her best medical judgment concerning a minor girl.

(3) Parents or guardians should be consulted and provided with all relevant information related to any medical procedure their child may undergo, including an abortion.

(4) Parents and guardians have the fundamental right to make health care decisions in their child's best interest and should be fully supported and informed as they make those decisions.

(5) Chapter 21 of Title 26, Code of Alabama 1975, requires parental consent before a minor girl undergoes an abortion or receives abortion-inducing drugs, except as provided by Sections 26-21-4 and 26-21-5, Code of Alabama 1975.

(6) Any adult who disregards or circumvents the consent requirement of this state commits a crime and should be held civilly liable to the minor girl's parents or guardian.

Section 3. For the purposes of this act, the following terms have the following meanings:

(1) ABORTION. The same meaning as Section 26-23H-3, Code of Alabama 1975.

(2) ABORTION-INDUCING DRUG. Any medicine, drug, or other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman for the purpose of ensuring the death of an unborn child. This term includes the off-label use of drugs known to have abortion-inducing properties, if they are prescribed with the intent to cause an abortion. This term does not include any drug that may be known to cause an abortion, if the drug is prescribed for other medical reasons.

(3) ASSISTANCE. Providing lodging, shelter, transportation, or money to a minor girl that could help her procure an abortion or abortion-inducing drug without the knowledge, consent, or involvement of her parents or legal guardian.

(4) HARBORING. Providing assistance to a minor girl in order to procure an abortion or obtain abortion-inducing drugs

without the knowledge, consent, or involvement of her parents or legal guardian.

(5) MINOR GIRL. An unemancipated female under 18 years of age.

(6) TRANSPORTION. To move within, into, out of, or through the state for the purposes of procuring an abortion or obtaining abortion-inducing drugs.

Section 4. (a)(1) Except as otherwise provided in subsection (b), no person, with the intent to conceal an abortion from the parents or guardian of the minor girl, may harbor or transport a minor girl within this state and: (i) procure an abortion for the minor girl; (ii) obtain an abortion-inducing drug for the minor girl; or (iii) aid or abet the minor girl in procuring an abortion or obtaining an abortion drug.

(2) A person who violates this section shall be guilty of a Class A misdemeanor.

(b) This section shall not apply:

(1) In the case of a medical emergency, pursuant to Section 26-21-5, Code of Alabama 1975; or

(2) If a court has waived the consent requirement for the minor girl pursuant to Section 26-21-4, Code of Alabama 1975.

(c) For the purposes of this section, the terms "procure" and "obtain" do not include providing information to a minor girl relating to a health benefit plan or any other constitutionally protected speech or expression.

(d) Nothing in this act may be construed to subject a

minor girl to any criminal conviction or penalty.

Section 5. It is an affirmative defense to prosecution under this act that a parent or guardian of the minor girl consented to the harboring or transporting of a minor girl.

(b) It is not an affirmative defense to prosecution under this act that the person or entity performing the abortion or providing the abortion-inducing drug is located in another state.

Section 6. (a) The parent or guardian of a minor girl may bring a civil cause of action for actual and punitive damages, injunctive relief, and reasonable attorney fees, in addition to any and all remedies available under the law, against any person who procures an abortion or obtains an abortion-inducing drug for that minor girl or aids and abets her to do so.

(b) Nothing in this act may be construed to subject the minor girl to any civil liability or penalty.

Section 7. Nothing in this act shall be construed as creating or recognizing a right to an abortion or making lawful an abortion that is unlawful.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 9. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or

amends the definition of an existing crime.

Section 10. This act shall become effective on October 1, 2024.