

111TH CONGRESS  
1ST SESSION

# H. R. 559

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2009

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

To amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fair, Accurate, Secure,  
3 and Timely Redress Act of 2009” or the “FAST Redress  
4 Act of 2009”.

5 **SEC. 2. ESTABLISHMENT OF APPEAL AND REDRESS PROC-**  
6 **ESS FOR INDIVIDUALS WRONGLY DELAYED**  
7 **OR PROHIBITED FROM BOARDING A FLIGHT,**  
8 **OR DENIED A RIGHT, BENEFIT, OR PRIVI-**  
9 **LEGE.**

10 (a) IN GENERAL.—Subtitle H of title VIII of the  
11 Homeland Security Act of 2002 (6 U.S.C. 451 et seq.)  
12 is amended by adding at the end the following new section:

13 **“SEC. 890A. APPEAL AND REDRESS PROCESS FOR PAS-**  
14 **SENGERS WRONGLY DELAYED OR PROHIB-**  
15 **ITED FROM BOARDING A FLIGHT, OR DENIED**  
16 **A RIGHT, BENEFIT, OR PRIVILEGE.**

17 “(a) ESTABLISHMENT.—Not later than 30 days after  
18 the date of the enactment of this section, the Secretary  
19 shall establish a timely and fair process for individuals  
20 who believe they were delayed or prohibited from boarding  
21 a commercial aircraft or denied a right, benefit, or privi-  
22 lege because they were wrongly identified as a threat when  
23 screened against any terrorist watchlist or database used  
24 by the Transportation Security Administration (TSA) or  
25 any office or component of the Department.

26 “(b) OFFICE OF APPEALS AND REDRESS.—

1           “(1) ESTABLISHMENT.—The Secretary shall es-  
2           tablish in the Department an Office of Appeals and  
3           Redress to implement, coordinate, and execute the  
4           process established by the Secretary pursuant to  
5           subsection (a). The Office shall include representa-  
6           tives from the TSA and such other offices and com-  
7           ponents of the Department as the Secretary deter-  
8           mines appropriate.

9           “(2) COMPREHENSIVE CLEARED LIST.—The  
10          process established by the Secretary pursuant to  
11          subsection (a) shall include the establishment of a  
12          method by which the Office, under the direction of  
13          the Secretary, will maintain and appropriately dis-  
14          seminate a comprehensive list, to be known as the  
15          ‘Comprehensive Cleared List’, of individuals who—

16                 “(A) were misidentified as an individual on  
17                 any terrorist watchlist or database;

18                 “(B) completed an approved Department  
19                 of Homeland Security appeal and redress re-  
20                 quest and provided such additional information  
21                 as required by the Department to verify the in-  
22                 dividual’s identity; and

23                 “(C) permit the use of their personally  
24                 identifiable information to be shared between

1 multiple Departmental components for purposes  
2 of this section.

3 “(3) USE OF COMPREHENSIVE CLEARED  
4 LIST.—

5 “(A) IN GENERAL.—The Secretary shall—

6 “(i) except as provided in subpara-  
7 graph (B), transmit to the TSA or any  
8 other appropriate office or component of  
9 the Department, other Federal, State,  
10 local, and tribal entities, and domestic air  
11 carriers and foreign air carriers that use  
12 any terrorist watchlist or database, the  
13 Comprehensive Cleared List and any other  
14 information the Secretary determines nec-  
15 essary to resolve misidentifications and im-  
16 prove the administration of the advanced  
17 passenger prescreening system and reduce  
18 the number of false positives; and

19 “(ii) ensure that the Comprehensive  
20 Cleared List is taken into account by all  
21 appropriate offices or components of the  
22 Department when assessing the security  
23 risk of an individual.

24 “(B) TERMINATION.—

1           “(i) IN GENERAL.—The transmission  
2           of the Comprehensive Cleared List to do-  
3           mestic air carriers and foreign air carriers  
4           under clause (i) of subparagraph (A) shall  
5           terminate on the date on which the Fed-  
6           eral Government assumes terrorist  
7           watchlist or database screening functions.

8           “(ii) WRITTEN NOTIFICATION TO CON-  
9           GRESS.—Not later than 15 days after the  
10          date on which the transmission of the  
11          Comprehensive Cleared List to the air car-  
12          riers referred to in clause (i) of this sub-  
13          paragraph terminates in accordance with  
14          such clause, the Secretary shall provide  
15          written notification to the Committee on  
16          Homeland Security of the House of Rep-  
17          resentatives and the Committee on Com-  
18          merce, Science, and Transportation and  
19          the Committee on Homeland Security and  
20          Governmental Affairs of the Senate of such  
21          termination.

22          “(4) INTERGOVERNMENTAL EFFORTS.—The  
23          Secretary may—

24                 “(A) enter into memoranda of under-  
25                 standing with other Federal, State, local, and

1 tribal agencies or entities, as necessary, to im-  
2 prove the appeal and redress process and for  
3 other purposes such as to verify an individual’s  
4 identity and personally identifiable information;  
5 and

6 “(B) work with other Federal, State, local,  
7 and tribal agencies or entities that use any ter-  
8 rorist watchlist or database to ensure, to the  
9 greatest extent practicable, that the Com-  
10 prehensive Cleared List is considered when as-  
11 sessing the security risk of an individual.

12 “(5) HANDLING OF PERSONALLY IDENTIFIABLE  
13 INFORMATION.—The Secretary, in conjunction with  
14 the Chief Privacy Officer of the Department, shall—

15 “(A) require that Federal employees of the  
16 Department handling personally identifiable in-  
17 formation of individuals (in this paragraph re-  
18 ferred to as ‘PII’) complete mandatory privacy  
19 and security training prior to being authorized  
20 to handle PII;

21 “(B) ensure that the information main-  
22 tained under this subsection is secured by  
23 encryption, including one-way hashing, data  
24 anonymization techniques, or such other equiva-

1           lent technical security protections as the Sec-  
2           retary determines necessary;

3           “(C) limit the information collected from  
4           misidentified passengers or other individuals to  
5           the minimum amount necessary to resolve an  
6           appeal and redress request;

7           “(D) ensure that the information main-  
8           tained under this subsection is shared or trans-  
9           ferred via an encrypted data network that has  
10          been audited to ensure that the anti-hacking  
11          and other security related software functions  
12          perform properly and are updated as necessary;

13          “(E) ensure that any employee of the De-  
14          partment receiving the information maintained  
15          under this subsection handles such information  
16          in accordance with section 552a of title 5,  
17          United States Code, the Federal Information  
18          Security Management Act of 2002 (Public Law  
19          107–296), and other applicable laws;

20          “(F) only retain the information main-  
21          tained under this subsection for as long as  
22          needed to assist the individual traveler in the  
23          appeal and redress process;

24          “(G) engage in cooperative agreements  
25          with appropriate Federal agencies and entities,

1 on a reimbursable basis, to ensure that legal  
2 name changes are properly reflected in any ter-  
3 rorist watchlist or database and the Com-  
4 prehensive Cleared List to improve the appeal  
5 and redress process and to ensure the most ac-  
6 curate lists of identifications possible (except  
7 that section 552a of title 5, United States  
8 Code, shall not prohibit the sharing of legal  
9 name changes among Federal agencies and en-  
10 tities for the purposes of this section); and

11 “(H) conduct and publish a privacy impact  
12 assessment of the appeal and redress process  
13 established under this section and transmit the  
14 assessment to the Committee on Homeland Se-  
15 curity of the House of Representatives, and the  
16 Committee on Commerce, Science, and Trans-  
17 portation and the Committee on Homeland Se-  
18 curity and Governmental Affairs of the Senate.

19 “(6) INITIATION OF APPEAL AND REDRESS  
20 PROCESS AT AIRPORTS.—At each airport at which—

21 “(A) the Department has a presence, the  
22 Office shall provide written information to air  
23 carrier passengers to begin the appeal and re-  
24 dress process established pursuant to subsection  
25 (a); and



1           “(B) the Department has a significant  
2           presence, provide the written information re-  
3           ferred to in subparagraph (A) and ensure a  
4           TSA supervisor who is trained in such appeal  
5           and redress process is available to provide sup-  
6           port to air carrier passengers in need of guid-  
7           ance concerning such process.

8           “(7) REPORT TO CONGRESS.—Not later than  
9           240 days after the date of the enactment of this sec-  
10          tion, the Secretary shall submit to the Committee on  
11          Homeland Security of the House of Representatives  
12          and the Committee on Commerce, Science, and  
13          Transportation and the Committee on Homeland Se-  
14          curity and Governmental Affairs of the Senate a re-  
15          port on the status of information sharing among  
16          users at the Department of any terrorist watchlist or  
17          database. The report shall include the following in-  
18          formation:

19                 “(A) A description of the processes and the  
20                 status of the implementation of this section to  
21                 share the Comprehensive Cleared List with  
22                 other Department offices and components and  
23                 other Federal, State, local, and tribal authori-  
24                 ties that utilize any terrorist watchlist or data-  
25                 base.

1           “(B) A description of the extent to which  
2           such other Department offices and components  
3           are taking into account the Comprehensive  
4           Cleared List.

5           “(C) Data on the number of individuals  
6           who have sought and successfully obtained re-  
7           dress through the Office of Appeals and Re-  
8           dress.

9           “(D) Data on the number of individuals  
10          who have sought and were denied redress  
11          through the Office of Appeals and Redress.

12          “(E) An assessment of what impact infor-  
13          mation sharing of the Comprehensive Cleared  
14          List has had on misidentifications of individuals  
15          who have successfully obtained redress through  
16          the Office of Appeals and Redress.

17          “(F) An updated privacy impact assess-  
18          ment.

19          “(c) TERRORIST WATCHLIST OR DATABASE DE-  
20          FINED.—In this section, the term ‘terrorist watchlist or  
21          database’ means any terrorist watchlist or database used  
22          by the Transportation Security Administration or any of-  
23          fice or component of the Department of Homeland Secu-  
24          rity or specified in Homeland Security Presidential Direc-

1 tive–6, in effect as of the date of the enactment of this  
2 section.”.

3 (b) INCORPORATION OF SECURE FLIGHT.—Section  
4 44903(j)(2) of title 49, United States Code, is amended—

5 (1) in subparagraph (C)(iii)—

6 (A) by redesignating subclauses (II)  
7 through (VII) as subclauses (III) through  
8 (VIII), respectively; and

9 (B) by inserting after subclause (I) the fol-  
10 lowing new subclause:

11 “(II) ensure, not later than 30  
12 days after the date of the enactment  
13 of the FAST Redress Act of 2009,  
14 that the procedure established under  
15 subclause (I) is incorporated into the  
16 appeals and redress process estab-  
17 lished under section 890A of the  
18 Homeland Security Act of 2002;”;

19 (2) in subparagraph (E)(iii), by inserting before  
20 the period at the end the following: “, in accordance  
21 with the appeals and redress process established  
22 under section 890A of the Homeland Security Act of  
23 2002”; and

24 (3) in subparagraph (G)—

1           (A) in clause (i), by adding at the end the  
2 following new sentence: “The Assistant Sec-  
3 retary shall incorporate the process established  
4 pursuant to this clause into the appeals and re-  
5 dress process established under section 890A of  
6 the Homeland Security Act of 2002.”; and

7           (B) in clause (ii), by adding at the end the  
8 following new sentence: “The Assistant Sec-  
9 retary shall incorporate the record established  
10 and maintained pursuant to this clause into the  
11 Comprehensive Cleared List established and  
12 maintained under such section 890A.”.

13       (c) CONFORMING AMENDMENT.—Title 49, United  
14 States Code, is amended by striking section 44926 (and  
15 the item relating to such section in the analysis for chap-  
16 ter 449 of title 49).

17       (d) CLERICAL AMENDMENT.—Section 1(b) of the  
18 Homeland Security Act of 2002 (6 U.S.C. 101(b)) is  
19 amended by adding after the item relating to section 890  
20 the following new item:

“Sec. 890A. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege.”.

Passed the House of Representatives February 3,  
2009.

Attest:                      LORRAINE C. MILLER,  
*Clerk.*