

112TH CONGRESS
1ST SESSION

H. R. 1007

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2011

Ms. CLARKE of New York introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To amend the Homeland Security Act of 2002 to establish an appeal and redress process for individuals who are screened against the terrorist watchlist and 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair, Accurate, Secure,
5 and Timely Redress Act of 2011” or the “FAST Redress
6 Act of 2011”.

1 **SEC. 2. DEPARTMENT OF HOMELAND SECURITY APPEAL**
2 **AND REDRESS.**

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

6 **“SEC. 890A. APPEAL AND REDRESS.**

7 “(a) IN GENERAL.—The Secretary shall establish an
8 Office of Appeals and Redress to implement and execute
9 a redress process for individuals who believe they were
10 wrongly delayed or prohibited from boarding a commercial
11 aircraft or denied a right, benefit, or privilege by the De-
12 partment because they were wrongly identified as a threat
13 when screened against the terrorist watchlist used by the
14 Transportation Security Administration, United States
15 Customs and Border Protection, or any office or compo-
16 nent of the Department.

17 “(b) DIRECTOR.—The Office shall be headed by a Di-
18 rector, who shall be appointed by the Secretary and shall
19 report to the Secretary.

20 “(c) RESPONSIBILITIES.—The Director shall carry
21 out the following responsibilities:

22 “(1) Implement and maintain a redress process
23 that includes an information technology system for
24 purposes of providing redress to individuals who be-
25 lieve they were misidentified against the terrorist
26 watchlist and that addresses case management,

1 workflow, document management, recordkeeping,
2 and interoperability issues identified by audits of the
3 redress process in effect on the day before the date
4 of the enactment of this section.

5 “(2) Review, adjudicate, and respond in writ-
6 ing, within 30 days, to the greatest extent possible,
7 to an individual who files an appeal and redress re-
8 quest with information relating to the disposition of
9 such request.

10 “(3) Establish and maintain a Comprehensive
11 Cleared List of individuals who, upon providing all
12 information required by the Director to verify an in-
13 dividual’s identity, are determined by the Director to
14 be misidentified.

15 “(4) Perform such other responsibilities as the
16 Secretary may require.

17 “(d) COMPREHENSIVE CLEARED LIST.—

18 “(1) IN GENERAL.—The Secretary shall ensure
19 that the Comprehensive Cleared List is electronically
20 integrated into the systems for screening individuals
21 against the terrorist watchlist maintained by the
22 Transportation Security Administration, United
23 States Customs and Border Protection, or any other
24 office or component of the Department and shall—

1 “(A) transmit to other Federal, State,
2 local, and tribal agencies and entities that use
3 any terrorist watchlist the Comprehensive
4 Cleared List and any other information the Sec-
5 retary determines necessary to resolve misiden-
6 tifications, as appropriate; and

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

13 “(e) HANDLING OF PERSONALLY IDENTIFIABLE IN-
14 FORMATION.—The Secretary, in conjunction with the
15 Chief Privacy Officer of the Department, shall—

16 “(1) require that Federal employees of the De-
17 partment handling personally identifiable informa-
18 tion of individuals (in this paragraph referred to as
19 ‘PII’) complete mandatory privacy and security
20 training prior to being authorized to handle PII;

21 “(2) ensure that the information maintained
22 under this subsection is secured by encryption, in-
23 cluding one-way hashing, data anonymization tech-
24 niques, or such other equivalent technical security
25 protections as the Secretary determines necessary;

1 “(3) limit the information collected from indi-
2 viduals to the minimum amount necessary to resolve
3 an appeal and redress request;

4 “(4) ensure that the information maintained
5 under this subsection is shared or transferred via an
6 encrypted data network that has been audited to en-
7 sure that the anti-hacking and other security related
8 software functions perform properly and are updated
9 as necessary;

10 “(5) ensure that any employee of the Depart-
11 ment receiving the information maintained under
12 this subsection handles such information in accord-
13 ance with section 552a of title 5, United States
14 Code, the Federal Information Security Management
15 Act of 2002 (Public Law 107–296), and other appli-
16 cable laws;

17 “(6) only retain the information maintained
18 under this subsection for as long as needed to assist
19 the individual in the appeal and redress process;

20 “(7) engage in cooperative agreements with ap-
21 propriate Federal agencies and entities, on a reim-
22 bursable basis, to ensure that legal name changes
23 are properly reflected in any terrorist watchlist and
24 the Comprehensive Cleared List to improve the ap-
25 peal and redress process and to ensure the most ac-

1 curate lists of identifications possible (except that
2 section 552a of title 5, United States Code, shall not
3 prohibit the sharing of legal name changes among
4 Federal agencies and entities for the purposes of
5 this section);

6 “(8) ensure that the Chief Privacy Officer pub-
7 lishes an updated privacy impact assessment of the
8 appeal and redress process established under this
9 section and submit to the appropriate congressional
10 committees such assessment; and

11 “(9) submit, on a quarterly basis, to the appro-
12 priate congressional committees—

13 “(A) data on the number of individuals
14 who have sought and successfully obtained re-
15 dress through the Office of Appeals and Re-
16 dress during the immediately preceding quarter;

17 “(B) data on the number of individuals
18 who have sought and were denied redress
19 through the Office of Appeals and Redress dur-
20 ing the immediately preceding quarter;

21 “(C) the average length of time for adju-
22 dication of completed applications during the
23 immediately preceding quarter; and

24 “(D) a list of the grounds for denials, to-
25 gether with corresponding percentages for each

1 such ground reflecting the frequency of use by
2 the Office of Appeals and Redress during the
3 immediately preceding quarter.

4 “(f) INITIATION OF APPEAL AND REDRESS PROCESS
5 AT AIRPORTS AND PORTS OF ENTRY.—At each airport
6 and port of entry at which—

7 “(1) the Department has a presence, the Office
8 shall provide written information to individuals to
9 begin the appeal and redress process established
10 pursuant to subsection (a); and

11 “(2) the Department has a significant presence,
12 provide the written information referred to in sub-
13 paragraph (1) and ensure a Transportation Security
14 Administration or United States Customs and Bor-
15 der Protection supervisor who is trained in such ap-
16 peal and redress process is available to provide sup-
17 port to individuals in need of guidance concerning
18 such process.

19 “(g) INSPECTOR GENERAL REVIEW.—Not later than
20 one year after the date of the enactment of this section,
21 the Inspector General of the Department shall submit to
22 the appropriate congressional committees a report on the
23 status of implementation of this section. The report shall
24 include the following:

1 “(1) An evaluation of the appeal and redress
2 process established pursuant to this section.

3 “(2) An assessment of the status of the Com-
4 prehensive Cleared List requirements, including the
5 extent to which systems for screening individuals
6 against the terrorist watchlist maintained by the
7 Transportation Security Administration, United
8 States Customs and Border Protection, and other
9 offices and components of the Department have elec-
10 tronically integrated the Comprehensive Cleared
11 List.

12 “(3) An assessment of the impact of implemen-
13 tation of this section, including the integration of
14 the Comprehensive Cleared List into the systems for
15 screening individuals against the terrorist watchlist
16 maintained by the Transportation Security Adminis-
17 tration, United States Customs and Border Protec-
18 tion, and other office or component of the Depart-
19 ment has had on misidentifications of individuals.

20 “(h) DEFINITIONS.—

21 “(1) APPROPRIATE CONGRESSIONAL COM-
22 MITTEE.—In this section, the term ‘appropriate con-
23 gressional committee’ means the Committee on
24 Homeland Security of the House of Representatives
25 and Committee on Homeland Security and Govern-

1 mental Affairs of the Senate and any committee of
2 the House of Representatives or the Senate having
3 legislative jurisdiction under the rules of the House
4 of Representatives or Senate, respectively, over the
5 matter concerned.

6 “(2) TERRORIST WATCH LIST.—In this section,
7 the term ‘terrorist watchlist’ means any terrorist
8 watchlist or database used by the Transportation
9 Security Administration, United States Customs and
10 Border Protection, or any office or component of the
11 Department of Homeland Security or specified in
12 Homeland Security Presidential Directive-6 to
13 screen individuals, in effect as of the date of the en-
14 actment of this section.”.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated such sums as may be
17 necessary to carry out the amendments made by this sec-
18 tion.

19 (c) INCORPORATION OF SECURE FLIGHT.—Section
20 44903(j)(2) of title 49, United States Code, is amended—

21 (1) in subparagraph (C)(iii)—

22 (A) by redesignating subclauses (II)
23 through (VII) as subclauses (III) through
24 (VIII), respectively; and

1 (B) by inserting after subclause (I) the fol-
2 lowing new subclause:

3 “(II) ensure, not later than 30
4 days after the date of the enactment
5 of the FAST Redress Act of 2011,
6 that the procedure established under
7 subclause (I) is incorporated into the
8 appeals and redress process estab-
9 lished under section 890A of the
10 Homeland Security Act of 2002;”;

11 (2) in subparagraph (E)(iii), by inserting before
12 the period at the end the following: “, in accordance
13 with the appeals and redress process established
14 under section 890A of the Homeland Security Act of
15 2002”; and

16 (3) in subparagraph (G)—

17 (A) in clause (i), by adding at the end the
18 following new sentence: “The Assistant Sec-
19 retary shall incorporate the process established
20 pursuant to this clause into the appeals and re-
21 dress process established under section 890A of
22 the Homeland Security Act of 2002.”; and

23 (B) in clause (ii), by adding at the end the
24 following new sentence: “The Assistant Sec-
25 retary shall incorporate the record established

1 and maintained pursuant to this clause into the
2 Comprehensive Cleared List established and
3 maintained under such section 890A.”.

4 (d) CONFORMING AMENDMENT.—Title 49, United
5 States Code, is amended by striking section 44926 (and
6 the item relating to such section in the analysis for chap-
7 ter 449 of title 49).

8 (e) CLERICAL AMENDMENT.—Section 1(b) of the
9 Homeland Security Act of 2002 (6 U.S.C. 101(b)) is
10 amended by adding after the item relating to section 890
11 the following new item:

“Sec. 890A. Appeal and redress.”.

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