

114TH CONGRESS
2D SESSION

H. R. 4930

To ensure appropriate protections and redress for travelers, consistent with the transportation security and national security of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2016

Mr. RATCLIFFE (for himself and Mr. NUNES) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To ensure appropriate protections and redress for travelers, consistent with the transportation security and national security of the United States, 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 “Transportation Secu-
5 rity and Redress Act” or “TSARA”.

6 **SEC. 2. JUDICIAL REVIEW PROCEDURES FOR PERSONS DE-**
7 **LAYED OR PROHIBITED FROM BOARDING.**

8 (a) **EXCLUSIVE REMEDY.**—Except as provided in
9 subsection (b), no court of the United States or of any

1 State or political subdivision thereof shall have jurisdiction
2 over any claim, including a constitutional claim, related
3 to or arising out of a decision to delay or prohibit a person
4 from boarding a commercial aircraft because such person
5 has been identified as a threat by the Transportation Se-
6 curity Administration or the Terrorist Screening Center.
7 Any petition filed under subsection (c) shall be the sole
8 and exclusive judicial remedy for any claim described in
9 this section against the United States, any United States
10 Government department or agency, or any component or
11 official of any such department or agency.

12 (b) EXCLUSIVE JURISDICTION AND TIME OF FIL-
13 ING.—

14 (1) EXCLUSIVE JURISDICTION OF THE UNITED
15 STATES COURT OF APPEALS.—Any petition for re-
16 view under subsection (c), as well as any claims arising
17 out of the same facts and circumstances that
18 could have been set out in such petition, including
19 any challenge to an individual's identification as a
20 threat by the Transportation Security Administra-
21 tion or the Terrorist Screening Center, shall be filed
22 only in the United States Court of Appeals for the
23 District of Columbia Circuit or in the court of ap-
24 peals of the United States for the circuit in which

1 the person resides or where such person's principal
2 place of business is located.

3 (2) SCOPE OF REVIEW.—The court of appeals
4 in which the petition is filed shall have jurisdiction
5 to decide all relevant questions of law. The court of
6 appeals shall have exclusive jurisdiction to affirm,
7 amend, modify, or set aside any part of the final de-
8 cision under review, and may order the Transpor-
9 tation Security Administration or Terrorist Screen-
10 ing Center to conduct further proceedings.

11 (3) TIME FOR FILING.—The petition filed
12 under subsection (c), as well as any claims related
13 to such petition, must be filed not later than 60 days
14 after a final order or final decision is issued pursu-
15 ant to the administrative redress process established
16 by section 44903, 44909, or 44926 of title 49,
17 United States Code. The court of appeals may allow
18 the petition to be filed after the 60th day only if
19 good cause is shown for not filing by the 60th day.

20 (c) PETITION FOR REVIEW.—A petition for review
21 may be filed by any person who challenges a final adminis-
22 trative redress decision by the Transportation Security
23 Administration to delay or prohibit such person from
24 boarding a commercial aircraft because such person has
25 been identified as a threat by the Transportation Security

1 Administration or the Terrorist Screening Center. No pe-
2 tition may be filed under this subsection unless and until
3 the person filing such petition has exhausted the adminis-
4 trative redress process established by section 44903,
5 44909, or 44926 of title 49, United States Code.

6 (d) REQUIREMENT FOR AN ADMINISTRATIVE
7 RECORD AND PROCEDURES FOR JUDICIAL REVIEW.—
8 Notwithstanding any other provision of law, the following
9 procedures shall apply to a petition filed pursuant to sub-
10 section (c):

11 (1) The United States shall file with the court
12 of appeals an administrative record, which shall con-
13 sist of the information the United States relied upon
14 in support of the final decision under review, as well
15 as any information the petitioner has submitted pur-
16 suant to the administrative redress process estab-
17 lished by section 44903, 44909, or 44926 of title 49,
18 United States Code.

19 (2) All unclassified information contained in the
20 administrative record that is not otherwise privileged
21 or subject to statutory protections shall be provided
22 to the petitioner, and no discovery shall be per-
23 mitted.

24 (3) The administrative record may include un-
25 classified information subject to privilege or statu-

1 tory protections, which the United States may sub-
2 mit in camera and ex parte.

3 (4) Sensitive security information contained in
4 the administrative record may only be provided to
5 petitioner's counsel pursuant to a protective order in
6 accordance with the regulations and orders issued
7 pursuant to section 114(r) of title 49, United States
8 Code.

9 (5) The administrative record may also include
10 classified information, which the United States shall
11 submit to the court ex parte and in camera. The
12 United States shall provide an unclassified summary
13 of the classified information to the petitioner's coun-
14 sel pursuant to a protective order, taking into ac-
15 count the circumstances of the case, including the
16 petitioner's ability to respond to the basis for the
17 final order or final decision, unless the head of the
18 department or agency whose classified information is
19 at issue, or his designee, determines in his discretion
20 that providing a summary could damage the national
21 security of the United States.

22 (6) The administrative record may also include
23 information obtained or derived from orders issued
24 pursuant to the Foreign Intelligence Surveillance
25 Act of 1978, as amended (50 U.S.C. 1801 et seq.),

1 without regard to subsections (c), (e), (f), (g), and
2 (h) of section 106, subsections (d), (f), (g), (h), and
3 (i) of section 305, subsections (c), (e), (f), (g), and
4 (h) of section 405, and section 706, of that Act.
5 Whenever the United States intends to use such in-
6 formation against an aggrieved person, it shall pro-
7 vide an in camera and ex parte notice to the court
8 concerning such use.

9 (7) Whenever the court of appeals receives a
10 notice pursuant to subsection (d)(6), the court shall
11 review, in camera and ex parte, the application,
12 order, and any other materials that may be sub-
13 mitted by the United States.

14 (8) If the court determines that the order was
15 not lawfully authorized, or the information was not
16 obtained in conformity with the order, it shall ex-
17 clude such information from consideration as part of
18 the administrative record.

19 (9) Any classified information, sensitive security
20 information, law enforcement sensitive information,
21 or information that is otherwise privileged or subject
22 to statutory protections, that is part of the adminis-
23 trative record, or cited by the court in any decision,
24 shall be treated by the court and the parties con-
25 sistent with the provisions of this subsection, and

1 shall remain under seal and preserved in the records
2 of the court to be made available in the event of fur-
3 ther proceedings. In no event shall such information
4 be released as part of the public record.

5 (10) After the expiration of the time to seek
6 further review, or the conclusion of further pro-
7 ceedings, the court shall return the administrative
8 record, including any and all copies, to the United
9 States. All privileged information or other informa-
10 tion in the possession of petitioner's counsel that
11 was provided by the United States pursuant to a
12 protective order shall be returned to the United
13 States, or the petitioner's counsel shall certify its de-
14 struction, including any and all copies.

15 (e) SCOPE OF REVIEW.—The court of appeals shall
16 decide any petition for review filed under subsection (c)
17 based solely on the administrative record submitted by the
18 United States, including any information which may have
19 been filed with the court in camera and ex parte, and any
20 information submitted by the petitioner during the admin-
21 istrative redress process established by section 44903,
22 44909, or 44926 of title 49, United States Code. The
23 court shall uphold a final decision issued pursuant to the
24 administrative redress process by the Transportation Se-
25 curity Administration unless such decision was—

1 (1) arbitrary and capricious, an abuse of discre-
2 tion, or otherwise not in accordance with law;

3 (2) contrary to constitutional right, power,
4 privilege, or immunity;

5 (3) in excess of statutory jurisdiction, authority,
6 or limitation, or short of statutory right;

7 (4) lacking substantial support in the adminis-
8 trative record taken as a whole, including in the
9 classified information submitted to the court; or

10 (5) not in accord with procedures required by
11 law.

12 (f) SUPREME COURT REVIEW.—A decision by the
13 court of appeals under this section may be reviewed by
14 the Supreme Court under section 1254 of title 28, United
15 States Code.

16 (g) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed as limiting, superseding, or pre-
18 venting the invocation of, any privileges or defenses that
19 are otherwise available at law or in equity to protect
20 against the disclosure of information.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) The term “classified information” means
24 any information or material that has been deter-
25 mined by the United States Government pursuant to

1 an Executive order, statute, or regulation, to require
2 protection against unauthorized disclosure for rea-
3 sons of national security and any restricted data, as
4 defined in paragraph r. of section 11 of the Atomic
5 Energy Act of 1954 (42 U.S.C. 2014(y)).

6 (2) The term “national security” means the na-
7 tional defense and foreign relations of the United
8 States.

9 (3) The term “sensitive security information”
10 shall have the meaning set forth in sections 114(r)
11 and 40119 of title 49, United States Code, and the
12 regulations and orders issued pursuant thereto.

13 (4) The term “aggrieved person” shall have the
14 meaning set forth in sections 1801(k), 1821(2), and
15 1841(3) of title 50, United States Code.

16 **SEC. 4. APPLICATION TO PROCEEDINGS.**

17 (a) **EFFECTIVE DATE.**—The amendments made by
18 this Act shall take effect on the date of the enactment
19 of this Act, and shall apply to any pending claim by a
20 person who challenges a final decision by the Transpor-
21 tation Security Administration to delay or prohibit such
22 person from boarding a commercial aircraft because he
23 has been identified as a threat by the Transportation Se-
24 curity Administration or the Terrorist Screening Center.

1 (b) CONFORMING AMENDMENT.—The procedures set
2 forth in section 2(d) shall also apply to any petition to
3 review a final order entered pursuant to section 46110 of
4 title 49, United States Code.

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