

of title 49, United States Code, as amended by subsection (a), as soon as is practicable. The Under Secretary may make or continue such arrangements for the training of security screeners under that section as the Under Secretary determines necessary pending full implementation of that section as so amended.”

#### IMPROVEMENT OF SCREENER JOB PERFORMANCE

Pub. L. 108-458, title IV, §4015, Dec. 17, 2004, 118 Stat. 3720, provided that:

“(a) **REQUIRED ACTION.**—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to improve the job performance of airport screening personnel.

“(b) **HUMAN FACTORS STUDY.**—In carrying out this section, the Assistant Secretary shall provide, not later than 180 days after the date of the enactment of this Act [Dec. 17, 2004], to the appropriate congressional committees a report on the results of any human factors study conducted by the Department of Homeland Security to better understand problems in screener performance and to improve screener performance.”

[For definitions of “airport” and “appropriate congressional committees” used in section 4015 of Pub. L. 108-458, set out above, see section 4081 of Pub. L. 108-458, set out as a note under section 44901 of this title.]

#### SCREENER PERSONNEL

Pub. L. 107-71, title I, §111(d), Nov. 19, 2001, 115 Stat. 620, as amended by Pub. L. 112-171, §1(a), Aug. 16, 2012, 126 Stat. 1306; Pub. L. 116-92, div. F, title LXXVI, §7606, Dec. 20, 2019, 133 Stat. 2309, provided that:

“(1) **GENERAL AUTHORITY.**—Except as provided in paragraph (2), and notwithstanding any other provision of law, the Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening functions of the Under Secretary under section 44901 of title 49, United States Code. The Under Secretary shall establish levels of compensation and other benefits for individuals so employed.

“(2) **EXCEPTIONS.**—

“(A) **REEMPLOYMENT.**—In carrying out the functions authorized under paragraph (1), the Under Secretary shall be subject to the provisions set forth in chapter 43 of title 38, United States Code.

“(B) **LEAVE.**—The provisions of subchapter V of chapter 63 of title 5, United States Code, shall apply to any individual appointed under paragraph (1) as if such individual were an employee (within the meaning of subparagraph (A) of section 6381(1) of such title).”

[Pub. L. 112-171, §1(b), Aug. 16, 2012, 126 Stat. 1306, provided that: “The amendments made by subsection (a) [amending section 111(d) of Pub. L. 107-71, set out above] shall take effect on the date that is 270 days after the date of the enactment of this Act [Aug. 16, 2012].”]

#### CERTIFICATION OF SCREENING COMPANIES

Pub. L. 104-264, title III, §302, Oct. 9, 1996, 110 Stat. 3250, provided that: “The Administrator of the Federal Aviation Administration is directed to certify companies providing security screening and to improve the training and testing of security screeners through development of uniform performance standards for providing security screening services.”

#### STUDIES OF MINIMUM STANDARDS FOR PILOT QUALIFICATIONS AND OF PAY FOR TRAINING

Pub. L. 104-264, title V, §503, Oct. 9, 1996, 110 Stat. 3263, provided that the Administrator of the Federal Aviation Administration would appoint a task force

consisting of appropriate representatives of the aviation industry to study the development of standards and criteria for preemployment screening tests measuring the psychomotor coordination, general intellectual capacity, instrument and mechanical comprehension, and physical and mental fitness of applicants for employment as a pilot by an air carrier, the standards and criteria for pilot training facilities to be licensed by the Administrator, and to determine if the practice of some air carriers to require employees or prospective employees to pay for necessary training or experience was in the public interest; and provided that, not later than 1 year after Oct. 9, 1996, the Administrator would send Congress a report on the results of the studies.

#### STUDY OF MINIMUM FLIGHT TIME

Pub. L. 104-264, title V, §504, Oct. 9, 1996, 110 Stat. 3263, required the Administrator of the Federal Aviation Administration to conduct a study to determine the sufficiency of existing minimum flight time requirements for individuals seeking employment as pilots with air carriers and to report to Congress on the study results not later than 1 year after Oct. 9, 1996.

### § 44936. Employment investigations and restrictions

(a) **EMPLOYMENT INVESTIGATION REQUIREMENT.**—(1)(A) The Administrator shall require by regulation that an employment investigation, including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Administrator, shall be conducted of each individual employed in, or applying for, a position as a security screener under section 44935(e) or a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

(i) aircraft of an air carrier or foreign air carrier; or

(ii) a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier.

(B) The Administrator shall require by regulation that an employment investigation (including a criminal history record check and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Administrator) be conducted for—

(i) individuals who are responsible for screening passengers or property under section 44901 of this title;

(ii) supervisors of the individuals described in clause (i);

(iii) individuals who regularly have escorted access to aircraft of an air carrier or foreign air carrier or a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier; and

(iv) such other individuals who exercise security functions associated with baggage or cargo, as the Administrator determines is necessary to ensure air transportation security.

(C) **EXEMPTION.**—An employment investigation, including a criminal history record check, shall not be required under this subsection for an individual who is exempted under section 107.31(m)(1) or (2) of title 14, Code of Federal Regulations, as in effect on November 22, 2000.

The Administrator shall work with the International Civil Aviation Organization and with appropriate authorities of foreign countries to ensure that individuals exempted under this subparagraph do not pose a threat to aviation or national security.

(2) An air carrier, foreign air carrier, airport operator, or government that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Administrator requires is conducted.

(3) The Administrator shall provide for the periodic audit of the effectiveness of criminal history record checks conducted under paragraph (1) of this subsection.

(b) PROHIBITED EMPLOYMENT.—(1) Except as provided in paragraph (3) of this subsection, an air carrier, foreign air carrier, airport operator, or government may not employ, or authorize or make a contract for the services of, an individual in a position described in subsection (a)(1) of this section if—

(A) the investigation of the individual required under this section has not been conducted; or

(B) the results of that investigation establish that, in the 10-year period ending on the date of the investigation, the individual was convicted (or found not guilty by reason of insanity) of—

(i) a crime referred to in section 46306, 46308, 46312, 46314, or 46315 or chapter 465 of this title or section 32 of title 18;

(ii) murder;

(iii) assault with intent to murder;

(iv) espionage;

(v) sedition;

(vi) treason;

(vii) rape;

(viii) kidnapping;

(ix) unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(x) extortion;

(xi) armed or felony unarmed robbery;

(xii) distribution of, or intent to distribute, a controlled substance;

(xiii) a felony involving a threat;

(xiv) a felony involving—

(I) willful destruction of property;

(II) importation or manufacture of a controlled substance;

(III) burglary;

(IV) theft;

(V) dishonesty, fraud, or misrepresentation;

(VI) possession or distribution of stolen property;

(VII) aggravated assault;

(VIII) bribery; and

(IX) illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year, or any other crime classified as a felony that the Administrator determines indicates a propensity for placing contraband aboard an aircraft in return for money; or

(xv) conspiracy to commit any of the acts referred to in clauses (i) through (xiv).

(2) The Administrator may specify other factors that are sufficient to prohibit the employ-

ment of an individual in a position described in subsection (a)(1) of this section.

(3) An air carrier, foreign air carrier, airport operator, or government may employ, or authorize or contract for the services of, an individual in a position described in subsection (a)(1) of this section without carrying out the investigation required under this section, if the Administrator approves a plan to employ the individual that provides alternate security arrangements.

(c) FINGERPRINTING AND RECORD CHECK INFORMATION.—(1) If the Administrator requires an identification and criminal history record check, to be conducted by the Attorney General, as part of an investigation under this section, the Administrator shall designate an individual to obtain fingerprints and submit those fingerprints to the Attorney General. The Attorney General may make the results of a check available to an individual the Administrator designates. Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General. All Federal agencies shall cooperate with the Administrator and the Administrator's designee in the process of collecting and submitting fingerprints.

(2) The Administrator shall prescribe regulations on—

(A) procedures for taking fingerprints; and

(B) requirements for using information received from the Attorney General under paragraph (1) of this subsection—

(i) to limit the dissemination of the information; and

(ii) to ensure that the information is used only to carry out this section.

(3) If an identification and criminal history record check is conducted as part of an investigation of an individual under this section, the individual—

(A) shall receive a copy of any record received from the Attorney General; and

(B) may complete and correct the information contained in the check before a final employment decision is made based on the check.

(d) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to pay expenses incurred in carrying out this section. The employer of the individual being investigated shall pay the costs of a record check of the individual. Money collected under this section shall be credited to the account in the Treasury from which the expenses were incurred and are available to the Administrator and the Attorney General for those expenses.

(e) WHEN INVESTIGATION OR RECORD CHECK NOT REQUIRED.—This section does not require an investigation or record check when the investigation or record check is prohibited by a law of a foreign country.

(f) DEFINITION OF ADMINISTRATOR.—In this section, the term “Administrator” means the Administrator of the Transportation Security Administration.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1218; Pub. L. 104-264, title III, §§304(a), 306, title V, §502(a), Oct. 9, 1996, 110 Stat. 3251, 3252, 3259; Pub. L. 105-102, §2(25), Nov. 20, 1997, 111 Stat. 2205;

Pub. L. 105-142, §1, Dec. 5, 1997, 111 Stat. 2650; Pub. L. 106-181, title V, §508, Apr. 5, 2000, 114 Stat. 140; Pub. L. 106-528, §2(c), (d), Nov. 22, 2000, 114 Stat. 2517, 2518; Pub. L. 107-71, title I, §§101(f)(7), (9), 111(b), 138(a), (b)(1), 140(a)(1), Nov. 19, 2001, 115 Stat. 603, 620, 639-641; Pub. L. 115-254, div. K, title I, §1991(d)(27), Oct. 5, 2018, 132 Stat. 3638.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                    | <i>Source (Statutes at Large)</i>  |
|------------------------|--|--|
| 44936(a) .....         | 49 App.:1357(g)(1).                          | Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §316(g); added Nov. 16, 1990, Pub. L. 101-604, §105(a), 104 Stat. 3071. |
|                        | 49 App.:1357 (note).                         | Oct. 28, 1991, Pub. L. 102-143, §346, 105 Stat. 949.   |
| 44936(b) .....         | 49 App.:1357(g)(3).                          |  |
| 44936(c) .....         | 49 App.:1357(g)(2) (less (A) (2d sentence)). |  |
| 44936(d) .....         | 49 App.:1357(g)(2)(A) (2d sentence), (5).    |  |
| 44936(e) .....         | 49 App.:1357(g)(4).                          |  |

In subsection (a), the text of section 346 of the Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102-143, 105 Stat. 949) is omitted as executed.

In subsection (a)(2), the words “shall ensure” are substituted for “shall take such actions as may be necessary to ensure” to eliminate unnecessary words. The word “conducted” is substituted for “performed” for consistency in the revised title.

In subsection (b)(2), the words “The Administrator may specify” are substituted for “The Administrator may specify . . . the Administrator determines” to eliminate unnecessary words. The words “prohibit the employment of an individual” are substituted for “make an individual ineligible for employment” for clarity.

In subsection (b)(3), the words “may employ” are substituted for “It shall not be a violation of subparagraph (A) for . . . to employ” to eliminate unnecessary words.

In subsection (c)(1), the words “Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General” are substituted for “after consultation with the Attorney General” for clarity.

In subsection (c)(2), before clause (A), the words “For purposes of administering this subsection” are omitted as unnecessary. In clause (A), the word “implement” is omitted as unnecessary because of the restatement. In clause (B), before subclause (ii), the word “establish” is omitted as unnecessary because of the restatement. In subclause (ii), the words “to carry out this section” are substituted for “for the purposes of this section” for clarity.

In subsection (e), the words “a law of a foreign country” are substituted for “applicable laws of a foreign government” for clarity and consistency in the revised title and with other titles of the United States Code.

PUB. L. 105-102

This amends 49:44936(f)(1)(C) to reflect the redesignation of 49:30305(b)(7) as 49:30305(b)(8) by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104-324, 110 Stat. 3908).

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-254, §1991(d)(27)(C), substituted “Administrator” for “Under Secretary” wherever appearing.

Subsec. (a). Pub. L. 115-254, §1991(d)(27)(A)(i), which directed substitution of “Administrator” for “Under

Secretary of Transportation for Security” wherever appearing, was executed by making the substitution for “Under Secretary of Transportation for Security” before “shall require” and for “Under Secretary of Transportation for Transportation Security” after “determined practicable by the” in two places, to reflect the probable intent of Congress.

Subsec. (a)(1)(A). Pub. L. 115-254, §1991(d)(27)(A)(ii)(I), substituted “, shall be conducted” for “, shall be conducted” in introductory provisions.

Subsec. (a)(1)(C), (D). Pub. L. 115-254, §1991(d)(27)(A)(ii)(II), (iii), redesignated subpar. (D) as (C) and struck out former subpar. (C) which related to background checks of current employees.

Subsec. (c)(1). Pub. L. 115-254, §1991(d)(27)(B), substituted “Administrator’s” for “Under Secretary’s”.

Subsec. (f). Pub. L. 115-254, §1991(d)(27)(D), added subsec. (f).

2001—Subsec. (a)(1)(A). Pub. L. 107-71, §138(a)(1), inserted “and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security,” after “record check” in introductory provisions.

Pub. L. 107-71, §111(b)(1), inserted “as a security screener under section 44935(e) or a position” after “a position” in introductory provisions.

Pub. L. 107-71, §101(f)(7), (9), in introductory provisions, substituted “Under Secretary” for “Administrator” and “of Transportation for Security” for “of the Federal Aviation Administration”.

Subsec. (a)(1)(A)(ii). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (a)(1)(B). Pub. L. 107-71, §138(a)(2), in introductory provisions, substituted “and a review of available law enforcement data bases and records of other governmental and international agencies to the extent determined practicable by the Under Secretary of Transportation for Transportation Security” for “in any case described in subparagraph (C)”.

Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in introductory provisions.

Subsec. (a)(1)(B)(i). Pub. L. 107-71, §138(a)(3), substituted “are” for “will be”.

Subsec. (a)(1)(B)(ii). Pub. L. 107-71, §138(a)(4), struck out “and” after semicolon.

Subsec. (a)(1)(B)(iii). Pub. L. 107-71, §138(a)(6), added cl. (iii). Former cl. (iii) redesignated (iv).

Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (a)(1)(B)(iv). Pub. L. 107-71, §138(a)(5), redesignated cl. (iii) as (iv).

Subsec. (a)(1)(C). Pub. L. 107-71, §138(a)(7), (8), added subpar. (C) and struck out former subpar. (C) which related to criminal history record checks.

Subsec. (a)(1)(D). Pub. L. 107-71, §138(a)(7), (9), (10), redesignated subpar. (F) as (D), substituted “107.31(m)(1) or (2)” for “107.31(m)” and “November 22, 2000. The Under Secretary shall work with the International Civil Aviation Organization and with appropriate authorities of foreign countries to ensure that individuals exempted under this subparagraph do not pose a threat to aviation or national security” for “the date of enactment of this subparagraph” and struck out former subpar. (D) which allowed a supervised employee to remain in position until completion of record check.

Subsec. (a)(1)(E). Pub. L. 107-71, §138(a)(7), struck out subpar. (E) which related to criminal history record checks for screeners and others.

Subsec. (a)(1)(E)(iv). Pub. L. 107-71, §111(b)(2), struck out cl. (iv) which related to effective dates for subpar. (E).

Subsec. (a)(1)(F). Pub. L. 107-71, §138(a)(7), redesignated subpar. (F) as (D).

Subsec. (a)(2). Pub. L. 107-71, §§107(f)(7), 138(a)(11), substituted “carrier, airport operator, or government” for “carrier, or airport operator” and “Under Secretary” for “Administrator”.

Subsec. (a)(3). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (b)(1). Pub. L. 107-71, §138(a)(12), substituted “carrier, airport operator, or government” for “carrier, or airport operator” in introductory provisions.

Subsec. (b)(1)(B)(xiv)(IX). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (b)(2). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (b)(3). Pub. L. 107-71, §§101(f)(7), 138(a)(13), substituted “carrier, airport operator, or government” for “carrier, or airport operator” and “Under Secretary” for “Administrator”.

Subsec. (c)(1). Pub. L. 107-71, §138(a)(14), inserted at end “All Federal agencies shall cooperate with the Under Secretary and the Under Secretary’s designee in the process of collecting and submitting fingerprints.”

Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” wherever appearing.

Subsec. (c)(2). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in introductory provisions.

Subsec. (d). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in two places.

Subsecs. (f) to (h). Pub. L. 107-71, §§138(b)(1), 140(a)(1), amended section identically, redesignating subsecs. (f) to (h) as (h) to (j), respectively, of section 44703 of this title.

2000—Subsec. (a)(1)(A). Pub. L. 106-528, §2(c)(1), in introductory provisions, struck out “, as the Administrator decides is necessary to ensure air transportation security,” after “shall be conducted”.

Subsec. (a)(1)(C)(v). Pub. L. 106-181, §508(a), added cl. (v).

Subsec. (a)(1)(D). Pub. L. 106-528, §2(c)(2), substituted “in the position for which the individual applied” for “as a screener”.

Subsec. (a)(1)(E), (F). Pub. L. 106-528, §2(c)(3), added subpars. (E) and (F).

Subsec. (b)(1)(B). Pub. L. 106-528, §2(d)(1), inserted “(or found not guilty by reason of insanity)” after “convicted” in introductory provisions.

Subsec. (b)(1)(B)(xi). Pub. L. 106-528, §2(d)(2), inserted “or felony unarmed” after “armed”.

Subsec. (b)(1)(B)(xiii) to (xv). Pub. L. 106-528, §2(d)(3)–(5), added cls. (xiii) and (xiv), redesignated former cl. (xiii) as (xv), and in cl. (xv) substituted “clauses (i) through (xiv)” for “clauses (i)–(xii) of this paragraph”.

Subsec. (f)(1)(B). Pub. L. 106-181, §508(b)(1), inserted “(except a branch of the United States Armed Forces, the National Guard, or a reserve component of the United States Armed Forces)” after “other person” in introductory provisions.

Subsec. (f)(1)(B)(ii). Pub. L. 106-181, §508(b)(2), substituted “individual’s performance as a pilot” for “individual” in introductory provisions.

Subsec. (f)(5). Pub. L. 106-181, §508(b)(3), inserted before period at end of first sentence “; except that, for purposes of paragraph (15), the Administrator may allow an individual designated by the Administrator to accept and maintain written consent on behalf of the Administrator for records requested under paragraph (1)(A)”.

Subsec. (f)(13). Pub. L. 106-181, §508(b)(4)(A), substituted “shall” for “may” in introductory provisions.

Subsec. (f)(13)(A)(i). Pub. L. 106-181, §508(b)(4)(B), inserted “and disseminated under paragraph (15)” after “requested under paragraph (1)”.

Subsec. (f)(14)(B). Pub. L. 106-181, §508(b)(5), inserted “or from a foreign government or entity that employed the individual” after “exists”.

Subsec. (f)(15). Pub. L. 106-181, §508(b)(6), added par. (15).

1997—Subsec. (f)(1). Pub. L. 105-142, §1(1), substituted “Subject to paragraph (14), before allowing an individual to begin service” for “Before hiring an individual” in introductory provisions.

Subsec. (f)(1)(B). Pub. L. 105-142, §1(2), inserted “as a pilot of a civil or public aircraft” before “at any time” in introductory provisions.

Subsec. (f)(1)(C). Pub. L. 105-102 substituted “section 30305(b)(8) of this title” for “section 30305(b)(7)”.

Subsec. (f)(4). Pub. L. 105-142, §1(3), inserted “and air carriers” after “Administrator” and substituted “paragraphs (1)(A) and (1)(B)” for “paragraph (1)(A)”.

Subsec. (f)(5). Pub. L. 105-142, §1(4), substituted “this subsection” for “this paragraph”.

Subsec. (f)(10). Pub. L. 105-142, §1(5), inserted “who is or has been” before “employed” and “, but not later than 30 days after the date” after “reasonable time”.

Subsec. (f)(14). Pub. L. 105-142, §1(6), added par. (14).

1996—Subsec. (a)(1). Pub. L. 104-264, §304(a), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) of par. (1) as cls. (i) and (ii) of subpar. (A), respectively, and added subpars. (B) to (D).

Subsec. (a)(3). Pub. L. 104-264, §306, added par. (3).

Subsecs. (f) to (h). Pub. L. 104-264, §502(a), added subsecs. (f) to (h).

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106-528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106-528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-264, title III, §304(b), Oct. 9, 1996, 110 Stat. 3252, provided that: “The amendment made by subsection (a)(3) [amending this section] shall apply to individuals hired to perform functions described in section 44936(a)(1)(B) of title 49, United States Code, after the date of the enactment of this Act [Oct. 9, 1996]; except that the Administrator of the Federal Aviation Administration may, as the Administrator determines to be appropriate, require such employment investigations or criminal history records checks for individuals performing those functions on the date of the enactment of this Act.”

Amendment by section 502(a) of Pub. L. 104-264 applicable to any air carrier hiring an individual as a pilot whose application was first received by the carrier on or after the 120th day following Oct. 9, 1996, see section 502(d) of Pub. L. 104-264, set out as a note under section 30305 of this title.

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

### CRIMINAL HISTORY RECORD CHECKS

Pub. L. 106-528, §2(a), (b), Nov. 22, 2000, 114 Stat. 2517, provided that:

“(a) EXPANSION OF FAA ELECTRONIC PILOT PROGRAM.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Nov. 22, 2000], the Administrator of the Federal Aviation Administration shall develop, in consultation with the Office of Personnel Management and the Federal Bureau of Investigation, the pilot program for individual criminal history record checks (known as the electronic fingerprint transmission pilot project) into an aviation industry-wide program.

“(2) LIMITATION.—The Administrator shall not require any airport, air carrier, or screening company to participate in the program described in subsection (a) if the airport, air carrier, or screening company determines that it would not be cost effective for it to participate in the program and notifies the Administrator of that determination.

“(b) APPLICATION OF EXPANDED PROGRAM.—

“(1) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 22, 2000], the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the status of the Administrator's efforts to utilize the program described in subsection (a).”

“(2) NOTIFICATION CONCERNING SUFFICIENCY OF OPERATION.—If the Administrator determines that the program described in subsection (a) is not sufficiently operational 2 years after the date of enactment of this Act to permit its utilization in accordance with subsection (a), the Administrator shall notify the committees referred to in paragraph (1) of that determination.”

#### § 44937. Prohibition on transferring duties and powers

Except as specifically provided by law, the Administrator of the Transportation Security Administration may not transfer a duty or power under section 44903(a), (b), (c), or (e), 44906, 44912, 44935, 44936, or 44938(b)(3) of this title to another department, agency, or instrumentality of the United States Government.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1219; Pub. L. 103–429, §6(57), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 107–71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 115–254, div. K, title I, §1991(d)(28), Oct. 5, 2018, 132 Stat. 3639.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103–272

| Revised Section | Source (U.S. Code)  | Source (Statutes at Large)   |
|-----------------|---------------------|--|
| 44937 .....     | 49 App.:1357(e)(1). | Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(e)(1); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 417. |

The word “otherwise” is omitted as surplus. The word “assigned” is omitted as being included in “transfer”. The word “function” is omitted as being included in “duty or power”. The words “department, agency, or instrumentality of the United States Government” are substituted for “Federal department or agency” for clarity and consistency in the revised title and with other titles of the United States Code.

#### PUB. L. 103–429

This amends 49:44937 to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1219).

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115–254 substituted “Administrator of the Transportation Security Administration” for “Under Secretary of Transportation for Security”.

2001—Pub. L. 107–71 substituted “Under Secretary of Transportation for Security” for “Administrator of the Federal Aviation Administration”.

1994—Pub. L. 103–429 substituted “44906” for “44906(a)(1) or (b)”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

#### § 44938. Reports

(a) TRANSPORTATION SECURITY.—Not later than March 31 of each year, the Secretary of Home-

land Security shall submit to Congress a report on transportation security with recommendations the Secretary considers appropriate. The report shall be prepared in conjunction with the biennial report the Administrator of the Transportation Security Administration submits under subsection (b) of this section in each year the Administrator of the Transportation Security Administration submits the biennial report, but may not duplicate the information submitted under subsection (b) or section 44907(a)(3) of this title. The Secretary may submit the report in classified and unclassified parts. The report shall include—

(1) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

(2) an evaluation of deployment of explosive detection devices;

(3) recommendations for research, engineering, and development activities related to transportation security, except research engineering and development activities related to aviation security to the extent those activities are covered by the national aviation research plan required under section 44501(c) of this title;

(4) identification and evaluation of cooperative efforts with other departments, agencies, and instrumentalities of the United States Government;

(5) an evaluation of cooperation with foreign transportation and security authorities;

(6) the status of the extent to which the recommendations of the President's Commission on Aviation Security and Terrorism have been carried out and the reasons for any delay in carrying out those recommendations;

(7) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of the report;

(8) financial and staffing requirements of the Director;

(9) an assessment of financial and staffing requirements, and attainment of existing staffing goals, for carrying out duties and powers of the Administrator of the Transportation Security Administration related to security; and

(10) appropriate legislative and regulatory recommendations.

(b) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY.—The Administrator of the Transportation Security Administration shall submit biennially to Congress a report—

(1) on the effectiveness of procedures under section 44901 of this title;

(2) that includes a summary of the assessments conducted under section 44907(a)(1) and (2) of this title; and

(3) that includes an assessment of the steps being taken, and the progress being made, in ensuring compliance with section 44906 of this title for each foreign air carrier security program at airports outside the United States—

(A) at which the Administrator of the Transportation Security Administration decides that Foreign Security Liaison Officers are necessary for air transportation security; and

(B) for which extraordinary security measures are in place.