

104TH CONGRESS
2^D SESSION

H. R. 3923

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 1996

Received

AN ACT

To amend title 49, United States Code, to require the National Transportation Safety Board and individual air carriers to take actions to address the needs of families of passengers involved in aircraft accidents.

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 “Aviation Disaster
3 Family Assistance Act of 1996”.

4 **SEC. 2. ASSISTANCE BY NATIONAL TRANSPORTATION SAFE-**
5 **TY BOARD TO FAMILIES OF PASSENGERS IN-**
6 **VOLED IN AIRCRAFT ACCIDENTS.**

7 (a) AUTHORITY TO PROVIDE ASSISTANCE.—

8 (1) IN GENERAL.—Subchapter III of chapter
9 11 of title 49, United States Code, is amended by
10 adding at the end the following:

11 **“§ 1136. Assistance to families of passengers involved**
12 **in aircraft accidents**

13 “(a) IN GENERAL.—As soon as practicable after
14 being notified of an aircraft accident within the United
15 States involving an air carrier or foreign air carrier and
16 resulting in a major loss of life, the Chairman of the Na-
17 tional Transportation Safety Board shall—

18 “(1) designate and publicize the name and
19 phone number of a director of family support serv-
20 ices who shall be an employee of the Board and shall
21 be responsible for acting as a point of contact within
22 the Federal Government for the families of pas-
23 sengers involved in the accident and a liaison be-
24 tween the air carrier or foreign air carrier and the
25 families; and

1 “(2) designate an independent nonprofit organi-
2 zation, with experience in disasters and posttrauma
3 communication with families, which shall have pri-
4 mary responsibility for coordinating the emotional
5 care and support of the families of passengers in-
6 volved in the accident.

7 “(b) RESPONSIBILITIES OF THE BOARD.—The Board
8 shall have primary Federal responsibility for facilitating
9 the recovery and identification of fatally-injured pas-
10 sengers involved in an accident described in subsection (a).

11 “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-
12 TION.—The organization designated for an accident under
13 subsection (a)(2) shall have the following responsibilities
14 with respect to the families of passengers involved in the
15 accident:

16 “(1) To provide mental health and counseling
17 services, in coordination with the disaster response
18 team of the air carrier or foreign air carrier in-
19 volved.

20 “(2) To take such actions as may be necessary
21 to provide an environment in which the families may
22 grieve in private.

23 “(3) To meet with the families who have trav-
24 eled to the location of the accident, to contact the
25 families unable to travel to such location, and to

1 contact all affected families periodically thereafter
2 until such time as the organization, in consultation
3 with the director of family support services des-
4 ignated for the accident under subsection (a)(1), de-
5 termines that further assistance is no longer needed.

6 “(4) To communicate with the families as to
7 the roles of the organization, government agencies,
8 and the air carrier or foreign air carrier involved
9 with respect to the accident and the post-accident
10 activities.

11 “(5) To arrange a suitable memorial service, in
12 consultation with the families.

13 “(d) PASSENGER LISTS.—

14 “(1) REQUESTS FOR PASSENGER LISTS.—

15 “(A) REQUESTS BY DIRECTOR OF FAMILY
16 SUPPORT SERVICES.—It shall be the respon-
17 sibility of the director of family support services
18 designated for an accident under subsection
19 (a)(1) to request, as soon as practicable, from
20 the air carrier or foreign air carrier involved in
21 the accident a list, which is based on the best
22 available information at the time of the request,
23 of the names of the passengers that were
24 aboard the aircraft involved in the accident.

1 “(B) REQUESTS BY DESIGNATED ORGANI-
2 ZATION.—The organization designated for an
3 accident under subsection (a)(2) may request
4 from the air carrier or foreign air carrier in-
5 volved in the accident a list described in sub-
6 paragraph (A).

7 “(2) USE OF INFORMATION.—The director of
8 family support services and the organization may
9 not release to any person information on a list ob-
10 tained under paragraph (1) but may provide infor-
11 mation on the list about a passenger to the family
12 of the passenger to the extent that the director of
13 family support services or the organization considers
14 appropriate.

15 “(e) CONTINUING RESPONSIBILITIES OF THE
16 BOARD.—In the course of its investigation of an accident
17 described in subsection (a), the Board shall, to the maxi-
18 mum extent practicable, ensure that the families of pas-
19 sengers involved in the accident—

20 “(1) are briefed, prior to any public briefing,
21 about the accident, its causes, and any other find-
22 ings from the investigation; and

23 “(2) are individually informed of and allowed to
24 attend any public hearings and meetings of the
25 Board about the accident.

1 “(f) USE OF AIR CARRIER RESOURCES.—To the ex-
2 tent practicable, the organization designated for an acci-
3 dent under subsection (a)(2) shall coordinate its activities
4 with the air carrier or foreign air carrier involved in the
5 accident so that the resources of the carrier can be used
6 to the greatest extent possible to carry out the organiza-
7 tion’s responsibilities under this section.

8 “(g) PROHIBITED ACTIONS.—

9 “(1) ACTIONS TO IMPEDE THE BOARD.—No
10 person (including a State or political subdivision)
11 may impede the ability of the Board (including the
12 director of family support services designated for an
13 accident under subsection (a)(1)), or an organization
14 designated for an accident under subsection (a)(2),
15 to carry out its responsibilities under this section or
16 the ability of the families of passengers involved in
17 the accident to have contact with one another.

18 “(2) UNSOLICITED COMMUNICATIONS.—In the
19 event of an accident involving an air carrier provid-
20 ing interstate or foreign air transportation, no unso-
21 licited communication concerning a potential action
22 for personal injury or wrongful death may be made
23 by an attorney, representative of an attorney, insur-
24 ance company, or air carrier litigation representative
25 to an individual injured in the accident, or to a rel-

1 ative of an individual involved in the accident, before
2 the 30th day following the date of the accident.

3 “(h) DEFINITIONS.—In this section, the following
4 definitions apply:

5 “(1) AIRCRAFT ACCIDENT.—The term ‘aircraft
6 accident’ means any aviation disaster regardless of
7 its cause or suspected cause.

8 “(2) PASSENGER.—The term ‘passenger’ in-
9 cludes an employee of an air carrier aboard an air-
10 craft.”.

11 “(2) CONFORMING AMENDMENT.—The table of
12 sections for chapter 11 of such title is amended by
13 inserting after the item relating to section 1135 the
14 following:

“1136. Assistance to families of passengers involved in aircraft accidents.”.

15 (b) PENALTIES.—Section 1155(a)(1) of such title is
16 amended—

17 (1) by striking “or 1134(b) or (f)(1)” and in-
18 serting “, section 1134(b), section 1134(f)(1), or
19 section 1136(g)”; and

20 (2) by striking “either of” and inserting “any
21 of”.

1 **SEC. 3. AIR CARRIER PLANS TO ADDRESS NEEDS OF FAMI-**
2 **LIES OF PASSENGERS INVOLVED IN AIR-**
3 **CRAFT ACCIDENTS.**

4 (a) IN GENERAL.—Chapter 411 of title 49, United
5 States Code, is amended by adding at the end the follow-
6 ing:

7 **“§ 41113. Plans to address needs of families of pas-**
8 **sengers involved in aircraft accidents**

9 “(a) SUBMISSION OF PLANS.—Not later than 6
10 months after the date of the enactment of this section,
11 each air carrier holding a certificate of public convenience
12 and necessity under section 41102 of this title shall sub-
13 mit to the Secretary and the Chairman of the National
14 Transportation Safety Board a plan for addressing the
15 needs of the families of passengers involved in any aircraft
16 accident involving an aircraft of the air carrier and result-
17 ing in a major loss of life.

18 “(b) CONTENTS OF PLANS.—A plan to be submitted
19 by an air carrier under subsection (a) shall include, at a
20 minimum, the following:

21 “(1) A plan for publicizing a reliable, toll-free
22 telephone number, and for providing staff, to handle
23 calls from the families of the passengers.

24 “(2) A process for notifying the families of the
25 passengers, before providing any public notice of the
26 names of the passengers, either by utilizing the serv-

1 ices of the organization designated for the accident
2 under section 1136(a)(2) of this title or the services
3 of other suitably trained individuals.

4 “(3) An assurance that the notice described in
5 paragraph (2) will be provided to the family of a
6 passenger as soon as the air carrier has verified that
7 the passenger was aboard the aircraft (whether or
8 not the names of all of the passengers have been
9 verified) and, to the extent practicable, in person.

10 “(4) An assurance that the air carrier will pro-
11 vide to the director of family support services des-
12 ignated for the accident under section 1136(a)(1) of
13 this title, and to the organization designated for the
14 accident under section 1136(a)(2) of this title, im-
15 mediately upon request, a list (which is based on the
16 best available information at the time of the request)
17 of the names of the passengers aboard the aircraft
18 (whether or not such names have been verified), and
19 will periodically update the list.

20 “(5) An assurance that the family of each pas-
21 senger will be consulted about the disposition of all
22 remains and personal effects of the passenger.

23 “(6) An assurance that if requested by the fam-
24 ily of a passenger, any possession of the passenger
25 within the control of the air carrier (regardless of its

1 condition) will be returned to the family unless the
2 possession is needed for the accident investigation or
3 any criminal investigation.

4 “(7) An assurance that any unclaimed posses-
5 sion of a passenger within the control of the air car-
6 rier will be retained by the air carrier for at least
7 18 months.

8 “(8) An assurance that the family of each pas-
9 senger will be consulted about construction by the
10 air carrier of any monument to the passengers, in-
11 cluding any inscription on the monument.

12 “(9) An assurance that the treatment of the
13 families of nonrevenue passengers (and any other
14 victim of the accident) will be the same as the treat-
15 ment of the families of revenue passengers.

16 “(10) An assurance that the air carrier will
17 work with any organization designated under section
18 1136(a)(2) of this title on an ongoing basis to en-
19 sure that families of passengers receive an appro-
20 priate level of services and assistance following each
21 accident.

22 “(11) An assurance that the air carrier will
23 provide reasonable compensation to any organization
24 designated under section 1136(a)(2) of this title for
25 services provided by the organization.

1 “(12) An assurance that the air carrier will as-
2 sist the family of a passenger in traveling to the lo-
3 cation of the accident and provide for the physical
4 care of the family while the family is staying at such
5 location.

6 “(13) An assurance that the air carrier will
7 commit sufficient resources to carry out the plan.

8 “(c) CERTIFICATE REQUIREMENT.—After the date
9 that is 6 months after the date of the enactment of this
10 section, the Secretary may not approve an application for
11 a certificate of public convenience and necessity under sec-
12 tion 41102 of this title unless the applicant has included
13 as part of such application a plan that meets the require-
14 ments of subsection (b).

15 “(d) LIMITATION ON LIABILITY.—An air carrier shall
16 not be liable for damages in any action brought in a Fed-
17 eral or State court arising out of the performance of the
18 air carrier in preparing or providing a passenger list pur-
19 suant to a plan submitted by the air carrier under sub-
20 section (b), unless such liability was caused by conduct
21 of the air carrier which was grossly negligent or which con-
22 stituted intentional misconduct.

23 “(e) AIRCRAFT ACCIDENT AND PASSENGER DE-
24 FINED.—In this section, the terms ‘aircraft accident’ and

1 ‘passenger’ have the meanings such terms have in section
2 1136 of this title.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
4 tions for such chapter is amended by adding at the end
5 the following:

“41113. Plans to address needs of families of passengers involved in aircraft ac-
cidents.”.

6 **SEC. 4. ESTABLISHMENT OF TASK FORCE.**

7 (a) ESTABLISHMENT.—The Secretary of Transpor-
8 tation, in cooperation with the National Transportation
9 Safety Board, the Federal Emergency Management Agen-
10 cy, the American Red Cross, air carriers, and families
11 which have been involved in aircraft accidents shall estab-
12 lish a task force consisting of representatives of such enti-
13 ties and families, representatives of air carrier employees,
14 and representatives of such other entities as the Secretary
15 considers appropriate.

16 (b) MODEL PLAN AND RECOMMENDATIONS.—The
17 task force established pursuant to subsection (a) shall de-
18 velop—

19 (1) a model plan to assist air carriers in re-
20 sponding to aircraft accidents;

21 (2) recommendations on methods to ensure that
22 attorneys and representatives of media organizations
23 do not intrude on the privacy of families of pas-
24 sengers involved in an aircraft accident;

1 (3) recommendations on methods to ensure that
2 the families of passengers involved in an aircraft ac-
3 cident who are not citizens of the United States re-
4 ceive appropriate assistance;

5 (4) recommendations on methods to ensure that
6 State mental health licensing laws do not act to pre-
7 vent out-of-state mental health workers from work-
8 ing at the site of an aircraft accident or other relat-
9 ed sites;

10 (5) recommendations on the extent to which
11 military experts and facilities can be used to aid in
12 the identification of the remains of passengers in-
13 volved in an aircraft accident; and

14 (6) recommendations on methods to improve
15 the timeliness of the notification provided by air car-
16 riers to the families of passengers involved in an air-
17 craft accident, including—

18 (A) an analysis of the steps that air car-
19 riers would have to take to ensure that an accu-
20 rate list of passengers on board the aircraft
21 would be available within 1 hour of the accident
22 and an analysis of such steps to ensure that
23 such list would be available within 3 hours of
24 the accident;

1 (B) an analysis of the added costs to air
2 carriers and travel agents that would result if
3 air carriers were required to take the steps de-
4 scribed in subparagraph (A); and

5 (C) an analysis of any inconvenience to
6 passengers, including flight delays, that would
7 result if air carriers were required to take the
8 steps described in subparagraph (A).

9 (c) REPORT.—Not later than 1 year after the date
10 of the enactment of this Act, the Secretary shall transmit
11 to Congress a report containing the model plan and rec-
12 ommendations developed by the task force under sub-
13 section (b).

14 **SEC. 5. LIMITATION ON STATUTORY CONSTRUCTION.**

15 Nothing in this Act or any amendment made by this
16 Act may be construed as limiting the actions that an air
17 carrier may take, or the obligations that an air carrier
18 may have, in providing assistance to the families of pas-
19 sengers involved in an aircraft accident.

Passed the House of Representatives September 18,
1996.

Attest:

ROBIN H. CARLE,

Clerk.