

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 559

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 2009

Ms. CLARKE (for herself, Mr. THOMPSON of Mississippi, Mr. PERLMUTTER, and Mr. KING of New York) introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

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,*

3       **SECTION 1. SHORT TITLE.**

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

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

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

9 **“SEC. 890A. APPEAL AND REDRESS PROCESS FOR PAS-**  
10 **SENGERS WRONGLY DELAYED OR PROHIB-**  
11 **ITED FROM BOARDING A FLIGHT, OR DENIED**  
12 **A RIGHT, BENEFIT, OR PRIVILEGE.**

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

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

23 “(1) ESTABLISHMENT.—The Secretary shall es-  
24 tablish in the Department an Office of Appeals and  
25 Redress to implement, coordinate, and execute the  
26 process established by the Secretary pursuant to

1 subsection (a). The Office shall include representa-  
2 tives from the TSA and such other offices and com-  
3 ponents of the Department as the Secretary deter-  
4 mines appropriate.

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

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

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

19 “(C) permit the use of their personally  
20 identifiable information to be shared between  
21 multiple Departmental components for purposes  
22 of this section.

23 “(3) USE OF COMPREHENSIVE CLEARED  
24 LIST.—

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

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

14           “(ii) ensure that the Comprehensive  
15 Cleared List is taken into account by all  
16 appropriate offices or components of the  
17 Department when assessing the security  
18 risk of an individual.

19           “(B) TERMINATION.—

20           “(i) IN GENERAL.—The transmission  
21 of the Comprehensive Cleared List to do-  
22 mestic air carriers and foreign air carriers  
23 under clause (i) of subparagraph (A) shall  
24 terminate on the date on which the Fed-

1 eral Government assumes terrorist  
2 watchlist or database screening functions.

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

17 “(4) INTERGOVERNMENTAL EFFORTS.—The  
18 Secretary may—

19 “(A) enter into memoranda of under-  
20 standing with other Federal, State, local, and  
21 tribal agencies or entities, as necessary, to im-  
22 prove the appeal and redress process and for  
23 other purposes such as to verify an individual’s  
24 identity and personally identifiable information;  
25 and

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

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

10           “(A) require that Federal employees of the  
11           Department handling personally identifiable in-  
12           formation of individuals (in this paragraph re-  
13           ferred to as ‘PII’) complete mandatory privacy  
14           and security training prior to being authorized  
15           to handle PII;

16           “(B) ensure that the information main-  
17           tained under this subsection is secured by  
18           encryption, including one-way hashing, data  
19           anonymization techniques, or such other equiva-  
20           lent technical security protections as the Sec-  
21           retary determines necessary;

22           “(C) limit the information collected from  
23           misidentified passengers or other individuals to  
24           the minimum amount necessary to resolve an  
25           appeal and redress request;

1           “(D) ensure that the information main-  
2           tained under this subsection is shared or trans-  
3           ferred via an encrypted data network that has  
4           been audited to ensure that the anti-hacking  
5           and other security related software functions  
6           perform properly and are updated as necessary;

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

14          “(F) only retain the information main-  
15          tained under this subsection for as long as  
16          needed to assist the individual traveler in the  
17          appeal and redress process;

18          “(G) engage in cooperative agreements  
19          with appropriate Federal agencies and entities,  
20          on a reimbursable basis, to ensure that legal  
21          name changes are properly reflected in any ter-  
22          rorist watchlist or database and the Com-  
23          prehensive Cleared List to improve the appeal  
24          and redress process and to ensure the most ac-  
25          curate lists of identifications possible (except

1 that section 552a of title 5, United States  
2 Code, shall not prohibit the sharing of legal  
3 name changes among Federal agencies and en-  
4 tities for the purposes of this section); and

5 “(H) conduct and publish a privacy impact  
6 assessment of the appeal and redress process  
7 established under this section and transmit the  
8 assessment to the Committee on Homeland Se-  
9 curity of the House of Representatives, and the  
10 Committee on Commerce, Science, and Trans-  
11 portation and the Committee on Homeland Se-  
12 curity and Governmental Affairs of the Senate.

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

15 “(A) the Department has a presence, the  
16 Office shall provide written information to air  
17 carrier passengers to begin the appeal and re-  
18 dress process established pursuant to subsection  
19 (a); and

20 “(B) the Department has a significant  
21 presence, provide the written information re-  
22 ferred to in subparagraph (A) and ensure a  
23 TSA supervisor who is trained in such appeal  
24 and redress process is available to provide sup-



1 port to air carrier passengers in need of guid-  
2 ance concerning such process.

3 “(7) REPORT TO CONGRESS.—Not later than  
4 240 days after the date of the enactment of this sec-  
5 tion, the Secretary shall submit to the Committee on  
6 Homeland Security of the House of Representatives  
7 and the Committee on Commerce, Science, and  
8 Transportation and the Committee on Homeland Se-  
9 curity and Governmental Affairs of the Senate a re-  
10 port on the status of information sharing among  
11 users at the Department of any terrorist watchlist or  
12 database. The report shall include the following in-  
13 formation:

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

21 “(B) A description of the extent to which  
22 such other Department offices and components  
23 are taking into account the Comprehensive  
24 Cleared List.

1           “(C) Data on the number of individuals  
2 who have sought and successfully obtained re-  
3 dress through the Office of Appeals and Re-  
4 dress.

5           “(D) Data on the number of individuals  
6 who have sought and were denied redress  
7 through the Office of Appeals and Redress.

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

13           “(F) An updated privacy impact assess-  
14 ment.

15           “(c) TERRORIST WATCHLIST OR DATABASE DE-  
16 FINED.—In this section, the term ‘terrorist watchlist or  
17 database’ means any terrorist watchlist or database used  
18 by the Transportation Security Administration or any of-  
19 fice or component of the Department of Homeland Secu-  
20 rity or specified in Homeland Security Presidential Direc-  
21 tive–6, in effect as of the date of the enactment of this  
22 section.”.

23           (b) INCORPORATION OF SECURE FLIGHT.—Section  
24 44903(j)(2) of title 49, United States Code, is amended—

25           (1) in subparagraph (C)(iii)—

1 (A) by redesignating subclauses (II)  
2 through (VII) as subclauses (III) through  
3 (VIII), respectively; and

4 (B) by inserting after subclause (I) the fol-  
5 lowing new subclause:

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

14 (2) in subparagraph (E)(iii), by inserting before  
15 the period at the end the following: “, in accordance  
16 with the appeals and redress process established  
17 under section 890A of the Homeland Security Act of  
18 2002”; and

19 (3) in subparagraph (G)—

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

1           (B) in clause (ii), by adding at the end the  
2 following new sentence: “The Assistant Sec-  
3 retary shall incorporate the record established  
4 and maintained pursuant to this clause into the  
5 Comprehensive Cleared List established and  
6 maintained under such section 890A.”.

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

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

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

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