

116TH CONGRESS  
2D SESSION

# H. R. 1140

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IN THE SENATE OF THE UNITED STATES

MARCH 5, 2020

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

To enhance the security operations of the Transportation Security Administration and stability of the transportation security workforce by applying the personnel system under title 5, United States Code, to employees of the Transportation Security Administration who provide screening of all passengers and property, 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 “Rights for Transpor-  
5 tation Security Officers Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7        For purposes of this Act—

8            (1) the term “adjusted basic pay” means—

9                    (A) the rate of pay fixed by law or admin-  
10                    istrative action for the position held by a cov-  
11                    ered employee before any deductions; and

12                    (B) any regular, fixed supplemental pay-  
13                    ment for non-overtime hours of work creditable  
14                    as basic pay for retirement purposes, including  
15                    any applicable locality payment and any special  
16                    rate supplement;

17            (2) the term “Administrator” means the Ad-  
18            ministrator of the Transportation Security Adminis-  
19            tration;

20            (3) the term “covered employee” means an em-  
21            ployee who holds a covered position;

22            (4) the term “covered position” means a posi-  
23            tion within the Transportation Security Administra-  
24            tion;

1           (5) the term “conversion date” means the date  
2 as of which paragraphs (1) through (4) of section  
3 3(c) take effect;

4           (6) the term “2019 Determination” means the  
5 publication, entitled “Determination on Transpor-  
6 tation Security Officers and Collective Bargaining”,  
7 issued on July 13, 2019, by Administrator David P.  
8 Pecoske;

9           (7) the term “employee” has the meaning given  
10 such term by section 2105 of title 5, United States  
11 Code;

12           (8) the term “Secretary” means the Secretary  
13 of Homeland Security; and

14           (9) the term “TSA personnel management sys-  
15 tem” means any personnel management system es-  
16 tablished or modified under—

17                   (A) section 111(d) of the Aviation and  
18 Transportation Security Act (49 U.S.C. 44935  
19 note); or

20                   (B) section 114(n) of title 49, United  
21 States Code.

22 **SEC. 3. CONVERSION OF TSA PERSONNEL.**

23           (a) RESTRICTIONS ON CERTAIN PERSONNEL AU-  
24 THORITIES.—Notwithstanding any other provision of law,  
25 effective as of the date of the enactment of this Act—

1           (1) any TSA personnel management system in  
2 use for covered employees and covered positions on  
3 the day before such date of enactment, and any TSA  
4 personnel management policy, letters, guideline, or  
5 directive in effect on such day may not be modified;

6           (2) no TSA personnel management policy, let-  
7 ter, guideline, or directive that was not established  
8 before such date issued pursuant to section 111(d)  
9 of the Aviation and Transportation Security Act (49  
10 U.S.C. 44935 note) or section 114(n) of title 49,  
11 United States Code, may be established; and

12           (3) any authority to establish or adjust a  
13 human resources management system under chapter  
14 97 of title 5, United States Code, shall terminate  
15 with respect to covered employees and covered posi-  
16 tions.

17           (b) PERSONNEL AUTHORITIES DURING TRANSITION  
18 PERIOD.—Any TSA personnel management system in use  
19 for covered employees and covered positions on the day  
20 before the date of enactment of this Act and any TSA  
21 personnel management policy, letter, guideline, or direc-  
22 tive in effect on the day before the date of enactment of  
23 this Act shall remain in effect until the effective date  
24 under subsection (c).

1           (c) TRANSITION TO GENERAL PERSONNEL MANAGE-  
2   MENT SYSTEM APPLICABLE TO CIVIL SERVICE EMPLOY-  
3   EES.—Effective as of the date determined by the Sec-  
4   retary, but in no event later than 180 days after the date  
5   of the enactment of this Act—

6           (1) each provision of law cited in section 2(9)  
7   is repealed;

8           (2) any TSA personnel management policy, let-  
9   ter, guideline, and directive, including the 2019 De-  
10   termination, shall cease to be effective;

11          (3) any human resources management system  
12   established or adjusted under chapter 97 of title 5,  
13   United States Code, with respect to covered employ-  
14   ees or covered positions shall cease to be effective;  
15   and

16          (4) covered employees and covered positions  
17   shall be subject to the provisions of title 5, United  
18   States Code.

19          (d) SAFEGUARDS ON GRIEVANCES.—In carrying out  
20   this Act, the Secretary shall take such actions as are nec-  
21   essary to provide an opportunity to each covered employee  
22   with a grievance or disciplinary action (including an ad-  
23   verse action) pending within TSA on the date of enact-  
24   ment of this Act or at any time during the transition pe-  
25   riod described in subsection (c) to have such grievance re-

1 moved to proceedings pursuant to title 5, United States  
2 Code, or continued within TSA.

3 **SEC. 4. TRANSITION RULES.**

4 (a) **NONREDUCTION IN PAY AND COMPENSATION.**—  
5 Under pay conversion rules as the Secretary may prescribe  
6 to carry out this Act, a covered employee converted from  
7 a TSA personnel management system to the provisions of  
8 title 5, United States Code, pursuant to section 2(c)(4)  
9 shall not be subject to any reduction in the rate of ad-  
10 justed basic pay payable, or total compensation provided,  
11 to such covered employee.

12 (b) **PRESERVATION OF OTHER RIGHTS.**—In the case  
13 of each covered employee as of the conversion date, the  
14 Secretary shall take any actions necessary to ensure  
15 that—

16 (1) any annual leave, sick leave, or other paid  
17 leave accrued, accumulated, or otherwise available to  
18 a covered employee immediately before the conver-  
19 sion date shall remain available to the employee  
20 until used; and

21 (2) the Government share of any premiums or  
22 other periodic charges under chapter 89 of title 5,  
23 United States Code, governing group health insur-  
24 ance shall remain at least the same as was the case  
25 immediately before the conversion date.

1 (c) GAO STUDY ON TSA PAY RATES.—Not later  
2 than the date that is 9 months after the date of enactment  
3 of this Act, the Comptroller General shall submit a report  
4 to Congress on the differences in rates of pay, classified  
5 by pay system, between Transportation Security Adminis-  
6 tration employees—

7 (1) with duty stations in the contiguous 48  
8 States; and

9 (2) with duty stations outside of such States,  
10 including those employees located in any territory or  
11 possession of the United States.

12 (d) RULE OF CONSTRUCTION.—During the transition  
13 period and after the conversion date, the Secretary shall  
14 ensure that the Transportation Security Administration  
15 continues to prevent the hiring of individuals who have  
16 been convicted of a sex crime, an offense involving a  
17 minor, a crime of violence, or terrorism.

18 **SEC. 5. CONSULTATION REQUIREMENT.**

19 (a) EXCLUSIVE REPRESENTATIVE.—The labor orga-  
20 nization certified by the Federal Labor Relations Author-  
21 ity on June 29, 2011, or successor labor organization shall  
22 be treated as the exclusive representative of full- and part-  
23 time non-supervisory TSA personnel carrying out screen-  
24 ing functions under section 44901 of title 49, United  
25 States Code, and shall be the exclusive representative for

1 such personnel under chapter 71 of title 5, United States  
2 Code, with full rights under such chapter. Any collective  
3 bargaining agreement covering such personnel on the date  
4 of enactment of this Act shall remain in effect, consistent  
5 with subsection (d).

6 (b) CONSULTATION RIGHTS.—Not later than 7 days  
7 after the date of the enactment of this Act, the Secretary  
8 shall consult with the exclusive representative for the per-  
9 sonnel described in subsection (a) under chapter 71 of title  
10 5, United States Code, on the formulation of plans and  
11 deadlines to carry out the conversion of covered employees  
12 and covered positions under this Act. Prior to the conver-  
13 sion date, the Secretary shall provide (in writing) to such  
14 exclusive representative the plans for how the Secretary  
15 intends to carry out the conversion of covered employees  
16 and covered positions under this Act, including with re-  
17 spect to such matters as—

- 18 (1) the anticipated conversion date; and  
19 (2) measures to ensure compliance with sections  
20 3 and 4.

21 (c) REQUIRED AGENCY RESPONSE.—If any views or  
22 recommendations are presented under subsection (b) by  
23 the exclusive representative, the Secretary shall consider  
24 the views or recommendations before taking final action  
25 on any matter with respect to which the views or rec-

1 ommendations are presented and provide the exclusive  
2 representative a written statement of the reasons for the  
3 final actions to be taken.

4 (d) SUNSET PROVISION.—The provisions of this sec-  
5 tion shall cease to be effective as of the conversion date.

6 **SEC. 6. NO RIGHT TO STRIKE.**

7 Nothing in this Act shall be considered—

8 (1) to repeal or otherwise affect—

9 (A) section 1918 of title 18, United States  
10 Code (relating to disloyalty and asserting the  
11 right to strike against the Government); or

12 (B) section 7311 of title 5, United States  
13 Code (relating to loyalty and striking); or

14 (2) to otherwise authorize any activity which is  
15 not permitted under either provision of law cited in  
16 paragraph (1).

17 **SEC. 7. RULE OF CONSTRUCTION WITH RESPECT TO CER-**  
18 **TAIN CRIMES RELATING TO TERRORISM.**

19 Nothing in this Act may be construed to contradict  
20 chapter 113B of title 18, United States Code, including  
21 with respect to—

22 (1) section 2332b (relating to acts of terrorism  
23 transcending national boundaries);

24 (2) section 2339 (relating to harboring or con-  
25 cealing terrorists); and

1 (3) section 2339A (relating to providing mate-  
2 rial support to terrorists).

3 **SEC. 8. REPORT BY GAO REGARDING TSA RECRUITMENT.**

4 Not later than 1 year after the date of the enactment  
5 of this Act, the Comptroller General of the United States  
6 shall submit to Congress a report on the efforts of the  
7 Transportation Security Administration regarding recruit-  
8 ment, including recruitment efforts relating to veterans  
9 and the dependents of veterans and members of the  
10 Armed Forces and the dependents of such members. Such  
11 report shall also include recommendations regarding how  
12 the Administration may improve such recruitment efforts.

13 **SEC. 9. SENSE OF CONGRESS.**

14 It is the sense of Congress that the Transportation  
15 Security Administration's personnel system provides in-  
16 sufficient benefits and workplace protections to the work-  
17 force that secures the nation's transportation systems and  
18 that the Transportation Security Administration's work-  
19 force should be provided protections and benefits under  
20 title 5, United States Code.

21 **SEC. 10. ASSISTANCE FOR FEDERAL AIR MARSHAL SERV-  
22 ICE.**

23 The Administrator of the Transportation Security  
24 Administration shall engage and consult with public and  
25 private entities associated with the Federal Air Marshal

1 Service to address concerns regarding Federal Air Mar-  
2 shals related to the following:

3 (1) Mental health.

4 (2) Suicide rates.

5 (3) Morale and recruitment.

6 (4) Any other personnel issues the Adminis-  
7 trator determines appropriate.

8 **SEC. 11. PROHIBITION ON CERTAIN SOCIAL MEDIA APPLI-**  
9 **CATION.**

10 Beginning on the date of the enactment of this Act,  
11 covered employees may not use or have installed on United  
12 States Government-issued mobile devices the social media  
13 video application known as “TikTok” or any successor ap-  
14 plication.

15 **SEC. 12. VETERANS HIRING.**

16 The Secretary shall prioritize the hiring of veterans,  
17 including disabled veterans, and other preference eligible  
18 individuals, including widows and widowers of veterans, as  
19 defined in section 2108 of title 5, United States Code, for  
20 covered positions.

21 **SEC. 13. PREVENTION AND PROTECTION AGAINST CERTAIN**  
22 **ILLNESS.**

23 The Administrator of the Transportation Security  
24 Administration, in coordination with the Director of Cen-  
25 ters for Disease Control and Prevention and the Director

