

118TH CONGRESS  
1ST SESSION

# H. R. 2394

To protect airline crew members, security screening personnel, and passengers by banning abusive passengers from commercial aircraft flights, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2023

Mr. SWALWELL (for himself, Mr. FITZPATRICK, Mr. GARAMENDI, Mr. BACON, Mr. THOMPSON of California, Mr. SCHIFF, Mr. GOMEZ, Mr. SCHNEIDER, Mr. GALLEGRO, Mr. GRIJALVA, Ms. NORTON, and Ms. BARRAGÁN) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To protect airline crew members, security screening personnel, and passengers by banning abusive passengers from commercial aircraft flights, 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 “Protection from Abu-  
5 sive Passengers Act”.

1 **SEC. 2. DEFINED TERM.**

2 In this Act, the term “abusive passenger” means any  
3 individual who, on or after the date of the enactment of  
4 this Act, engages in behavior that results in—

5 (1) the assessment of a civil penalty for—

6 (A) engaging in conduct prohibited under  
7 section 46318 of title 49, United States Code;  
8 or

9 (B) tampering with, interfering with, com-  
10 promising, modifying, or attempting to cir-  
11 cumvent any security system, measure, or pro-  
12 cedure related to civil aviation security in viola-  
13 tion of section 1540.105(a)(1) of title 49, Code  
14 of Federal Regulations, if such violation is com-  
15 mitted on an aircraft in flight (as defined in  
16 section 46501(1) of title 49, United States  
17 Code);

18 (2) a conviction for a violation of section 46503  
19 or 46504 of title 49, United States Code; or

20 (3) a conviction for any other Federal offense  
21 involving assaults, threats, or intimidation against a  
22 crewmember on an aircraft in flight (as defined in  
23 section 46501(1) of title 49, United States Code).

24 **SEC. 3. REFERRALS.**

25 The Administrator of the Federal Aviation Adminis-  
26 tration or the Attorney General shall provide the identity

1 (including the full name, full date of birth, and gender)  
2 of all abusive passengers to the Administrator of the  
3 Transportation Security Administration.

4 **SEC. 4. BANNED FLIERS.**

5 (a) LIST.—The Administrator of the Transportation  
6 Security Administration shall maintain a list of abusive  
7 passengers.

8 (b) EFFECT OF INCLUSION ON LIST.—

9 (1) IN GENERAL.—Any individual included on  
10 the list maintained pursuant to subsection (a) shall  
11 be prohibited from boarding any commercial aircraft  
12 flight until such individual is removed from such list  
13 in accordance with the procedures established by the  
14 Administrator pursuant to section 5.

15 (2) OTHER LISTS.—The placement of an indi-  
16 vidual on the list maintained pursuant to subsection  
17 (a) shall not preclude the placement of such indi-  
18 vidual on other lists maintained by the Federal Gov-  
19 ernment and used by the Administrator of the  
20 Transportation Security Administration pursuant to  
21 sections 114(h) and 44903(j)(2)(C) of title 49,  
22 United States Code, to prohibit such individual from  
23 boarding a flight or to take other appropriate action  
24 with respect to such individual if the Administrator  
25 determines that such individual—

1 (A) poses a risk to the transportation sys-  
2 tem or national security;

3 (B) poses a risk of air piracy or terrorism;

4 (C) poses a threat to airline or passenger  
5 safety; or

6 (D) poses a threat to civil aviation or na-  
7 tional security.

8 **SEC. 5. POLICIES AND PROCEDURES FOR HANDLING ABU-**  
9 **SIVE PASSENGERS.**

10 Not later than 180 days after the date of the enact-  
11 ment of this Act, the Administrator of the Transportation  
12 Security Administration shall develop, and post on a pub-  
13 licly available website of the Transportation Security Ad-  
14 ministration, policies and procedures for handling individ-  
15 uals included on the list maintained pursuant to section  
16 4(a), including—

17 (1) the process for receiving and handling refer-  
18 rals received pursuant to section 3;

19 (2) the method by which the list of banned fli-  
20 ers required under section 4(a) will be maintained;

21 (3) specific guidelines and considerations for re-  
22 moving an individual from such list based on the  
23 gravity of each offense described in section 2;

1 (4) the procedures for the expeditious removal  
2 of the names of individuals who were erroneously in-  
3 cluded on such list;

4 (5) the circumstances under which certain indi-  
5 viduals rightfully included on such list may petition  
6 to be removed from such list, including the proce-  
7 dures for appealing a denial of such petition; and

8 (6) the process for providing to any individual  
9 who is the subject of a referral under section 3—

10 (A) written notification, not later than 5  
11 days after receiving such referral, including an  
12 explanation of the procedures and cir-  
13 cumstances referred to in paragraphs (4) and  
14 (5); and

15 (B) an opportunity to seek relief under  
16 paragraph (4) during the 5-day period begin-  
17 ning on the date on which the individual re-  
18 ceived the notification referred to in subpara-  
19 graph (A) to avoid being erroneously included  
20 on the list of abusive passengers referred to in  
21 section 4(a).

22 **SEC. 6. CONGRESSIONAL BRIEFING.**

23 Not later than 1 year after the date of the enactment  
24 of this Act, the Administrator of the Transportation Secu-  
25 rity Administration shall brief the Committee on Com-

1 merce, Science, and Transportation of the Senate and the  
2 Committee on Homeland Security of the House of Rep-  
3 resentatives regarding the policies and procedures devel-  
4 oped pursuant to section 5.

5 **SEC. 7. ANNUAL REPORT.**

6 The Administrator of the Transportation Security  
7 Administration shall submit an annual report to the Com-  
8 mittee on Commerce, Science, and Transportation of the  
9 Senate and the Committee on Homeland Security of the  
10 House of Representatives that contains nonpersonally  
11 identifiable information regarding the composition of the  
12 list required under section 4(a), including—

13 (1) the number of individuals included on such  
14 list;

15 (2) the age and sex of the individuals included  
16 on such list;

17 (3) the underlying offense or offenses of the in-  
18 dividuals included on such list;

19 (4) the period of time each individual has been  
20 included on such list;

21 (5) the number of individuals rightfully in-  
22 cluded on such list who have petitioned for removal  
23 and the status of such petitions;



1 **SEC. 10. LIMITATION.**

2 (a) IN GENERAL.—The inclusion of a person’s name  
3 on a list described in section 4(a) may not be used as the  
4 basis for denying any right or privilege under Federal law  
5 except for the rights and privileges described in sections  
6 4(b), 5, and 9.

7 (b) RULE OF CONSTRUCTION.—Nothing in this sec-  
8 tion may be construed to limit the dissemination, or bar  
9 the consideration, of the facts and circumstances that  
10 prompt placement of a person on the list described in sec-  
11 tion 4(a).

12 **SEC. 11. PRIVACY.**

13 Personally identifiable information used to create the  
14 list required under section 4(a)—

15 (1) shall be exempt from disclosure under sec-  
16 tion 552(b)(3) of title 5, United States Code; and

17 (2) shall not be made available by any Federal,  
18 State, Tribal, or local authority pursuant to any  
19 Federal, State, Tribal, or local law requiring public  
20 disclosure of information or records.

21 **SEC. 12. SAVINGS PROVISION.**

22 Nothing in this Act may be construed to limit the  
23 authority of the Transportation Security Administration  
24 or of any other Federal agency to undertake measures to



- 1 protect passengers, flight crew members, or security offi-
- 2 cers under any other provision of law.

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