

RAIL PASSENGER DISASTER FAMILY ASSISTANCE ACT
OF 2003

MARCH 18, 2003.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 874]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 874) to establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

INTRODUCTION

Reacting to the post-accident events arising out of the 1996 Value Jet and TWA 800 passenger aircraft crashes, the House approved the Aviation Disaster Family Assistance Act, enacted as Title VII of the Federal Aviation Reauthorization Act of 1996 (P.L. 104-264, 110 Stat. 3264). This law was extended to cover foreign air carriers in 1997 (P.L. 105-148). Further changes to this regime of assistance for aviation disaster victims were recommended by the task force created under the original 1996 legislation. In 1999, the Committee (H. Rep. No. 106-167, Part 1) and Congress passed H.R. 1000, the Aviation Investment and Reform Act for the 21st Century, incorporating the recommended changes (P.L. 106-181, 114 Stat. 129).

The present legislation, H.R. 874, establishes procedures to ensure timely and sensitive handling of intercity passenger rail accident information needed by accident victims and their families. It tracks as closely as possible the aviation disaster assistance legislation, proven successful over the last three years, and incorporates the recent changes approved by the House. Certain modifications

were necessary. For example, many intercity passenger trains do not have a comprehensive passenger manifest, because passenger boarding can occur on an unreserved basis, and at intermediate points on a rail journey.

The bill would apply to Amtrak and other intercity rail passenger service. Amtrak is the only current passenger rail carrier that would be affected by the provisions of the bill. Amtrak is already modifying its plans to respond more expeditiously to the needs of families of rail passenger accident victims. Over the next few years, there may well be multiple operators of rail passenger service besides Amtrak. A number of States have already investigated or begun planning for high-speed rail corridors. The ICC Termination Act of 1995 abolished Federal market entry regulation of rail passenger service. In 1997, the Amtrak Reform and Accountability Act ended the former statutory monopoly of Amtrak over intercity rail passenger service and authorized compacts among States to support intercity rail passenger service. In light of these developments, the Committee considers it prudent to have a comprehensive procedural model in place for any future passenger operators to follow in preparing for dealings with accident victims and their families.

The bill's necessary modifications to the aviation legislation prototype are explained in the accompanying section-by-section analysis, including the statutory definitions of "rail passenger accident" and "rail passenger carrier." The Committee intends the legislation to cover rail passenger accidents involving substantial on-board casualties, but not situations involving only injuries or fatalities among persons trespassing on railroad tracks or in vehicles involved in grade-crossing collisions. As with the limitations described above, casualties of this type typically involve persons who are in their home region and usually not far from home. Moreover, the rail carrier has no prior contact with or knowledge of such persons, and therefore no relevant information to convey.

The key features of H.R. 874 include procedures to assure timely and sensitive handling of accident information needed by accident victims and their families. This information is coordinated among the National Transportation Safety Board (NTSB), the rail passenger carrier, and a designated non-profit charitable organization. The designated organization is in charge of providing necessary counseling services, ensuring a private venue for families to grieve, and assisting families in a variety of matters, including a possible memorial service.

The legislation also protects the victims and their families against unsolicited and intrusive contacts by attorneys in the immediate post-accident environment, when families may be in shock and not emotionally capable of making sound decisions about possible legal redress. This provision would not apply to lawyers seeking to represent railroad employees. The bill also ensures orderly preparedness by rail passenger carriers for accidents by requiring comprehensive plans to be in place governing each carrier's procedures for handling post-accident information and family assistance.

CONCLUSION

The Rail Passenger Disaster Family Assistance Act of 2003 builds on the successful procedures put in place for aviation disasters over the past several years. As rail passenger service continues

to grow in importance and diversity within our transport system, the need for similar procedures to ensure timely handling of needed information and sensitive treatment of accident victims and their families is also likely to grow. The Committee believes that it is wise policy to have proven procedures in place for any future rail passenger accidents, especially in light of the positive practical experience gained under the 1996 aviation legislation.

RAIL PASSENGER DISASTER FAMILY ASSISTANCE ACT OF 2003
SECTION-BY-SECTION ANALYSIS

Section 1

This section provides that the Act may be cited as the “Rail Passenger Disaster Assistance Act of 2003.”

Section 2

This section authorizes the National Transportation Safety Board (NTSB) to provide assistance to families of passengers involved in major rail passenger accidents within the United States. The provision applies only to accidents involving interstate, intercity rail passenger carriers, or interstate or intrastate high-speed rail carriers, but not to those involving tourist, historic, scenic, or excursion rail carriers.

Subsection 2(a) of the bill adds a new section 1138 to title 49 that lays out the responsibilities of the NTSB and an independent organization designated by the NTSB.

Subsection (a) of section 1138 directs the NTSB Chairman to take action as soon as practical after being notified of a rail passenger accident resulting in a major loss of life. This terminology is used to give the agency flexibility in deciding when to invoke the procedures of this section. Where the procedures of this bill are invoked, the Chairman is required to take the following actions:

(1) Designate an NTSB employee as a director of family support services who shall be a point of contact within the government for the families, and a liaison between the rail passenger carrier and the families.

(2) Designate an independent organization with experience in disasters to be responsible for coordinating the emotional care and support of the families of passengers involved in the accident.

Subsection (b) of section 1138 states the NTSB shall have the primary Federal responsibility for facilitating the recovery and identification of passengers killed in the accident and communicating with the families of passengers involved in the accident as to the roles of the independent organization, government agencies, and the rail passenger carrier involved in the accident.

Subsection (c) of section 1138 sets forth the following specific responsibilities of the independent organization designated in subsection (a):

(1) Provide mental health and counseling services in coordination with the rail passenger carrier.

(2) Provide an environment where the families can grieve in private, free from intrusion by lawyers and the press.

(3) Meet with families who come to the scene, contact the other families, and stay in contact until such time as assistance is no longer needed.

(4) Arrange a suitable memorial service in consultation with the families.

Subsection (d) of section 1138 directs the NTSB's director of family support services to request the passenger list as soon as possible. The rail passenger carrier is to use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard the train involved in an accident. The subsection also gives the designated organization the option of requesting the list. Recipients of that list could not release it publicly, but they could use it to provide information to the families.

Subsection (e) of section 1138 requires that the NTSB brief the families prior to any public briefing about the accident. Additionally, the Board is required to individually inform the families about and allow them to attend any public hearings or Board meetings about the accident.

Subsection (f) of section 1138 requires the designated organization to coordinate its activities with the rail passenger carrier and enables it to use the resources of the carrier to help it perform its duties under this legislation.

Subsection (g) of section 1138 prohibits any person from impeding the NTSB, the director of family support services, or designated organization in carrying out their responsibilities or the ability of the families to have contact with one another. This subsection also includes a prohibition on lawyers making unsolicited communications to families or individuals injured in the accident (other than an employee of the rail passenger carrier) before the 45th day following the date of the accident. The subsection also provides that no state or political subdivision may prevent the employees, agents, or volunteers of the designated organization from providing mental health and counseling services in the 30 days after the accident. The director of family support services may extend this period an additional 30 days.

Subsection (h) of section 1138 defines a rail passenger accident under this bill as a rail disaster occurring in the provision of interstate, intercity rail passenger transportation or interstate or intrastate high-speed rail passenger transportation, regardless of its cause or suspected cause. A rail passenger carrier is defined as a rail carrier providing interstate intercity rail passenger transportation or interstate or intrastate high-speed rail passenger transportation, except that it does not include a tourist, historic, scenic, or excursion rail carrier. It also defines passenger so that rail carrier employees aboard the train, as well as other victims not aboard the train, are afforded the same treatment from NTSB and the designated organization that passengers aboard the train receive under this legislation.

Subsection (i) of section 1138 provides that nothing in the section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

Subsection (j) of section 1138 provides that the procedures of section 1138 (other than the prohibition on impeding the NTSB, on unsolicited attorney contact, and the guarantee of access to mental health and counseling services) shall not apply when the NTSB has

relinquished investigative authority to a federal criminal investigative agency. In such circumstances, the subsection directs the NTSB to assist the agency with primary investigative responsibility in helping families of accident victims.

Subsection (b) of Section 2 contains a conforming amendment.

Section 3

Section 3 enacts a new section 25101, title 49, United States Code. Subsection (a) of section 25101 requires each rail passenger carrier to submit to the Secretary of Transportation and the Chairman of the NTSB a plan for addressing needs of families relating to major rail passenger carrier accidents.

Subsection (b) of section 25101 lists the minimum requirements for family assistance plans to be submitted by rail passenger carriers. These include:

- A plan for publicizing a reliable, toll-free phone number and staff to handle calls from passengers' families.
- A process for notifying families of passengers, prior to public release of passenger names, either through the designated charitable organization or other suitably trained individuals.
- An assurance that families will be notified that an individual was aboard the train involved in the accident as soon as that fact has been verified.
- An assurance that the rail passenger carrier will provide to the NTSB director of family support services and to the designated charitable organization a list of passengers based on the best information available, with periodic updates. The carrier is to use reasonable efforts to obtain names of passengers aboard the train involved in the accident.
- An assurance that the family of a passenger will be consulted about disposition of remains and personal effects within the carrier's control.
- An assurance that personal effects of a passenger within the carrier's control will be returned to the family unless needed for accident or criminal investigation purposes.
- An assurance that any unclaimed passenger possessions within the carrier's control will be retained by the carrier for at least 18 months after the accident.
- An assurance that the family of each person killed in an accident will be consulted about construction by the carrier of any monument to the passengers, including any inscription.
- An assurance that revenue and nonrevenue passengers' families will be given equal treatment.
- An assurance that the carrier will work with the designated charitable organization to ensure that the passengers' families receive an appropriate level of service and assistance.
- An assurance that the carrier will provide reasonable compensation to the designated charitable organization.
- An assurance that the carrier will assist the family of a passenger to travel to the location of the accident and provide for the family's physical care while staying at that location.
- An assurance that the rail passenger carrier will commit sufficient resources to carry out the family assistance plan.

- An assurance that the carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.
- An assurance that, upon request by a passenger's family, the carrier will inform the family whether the passenger's name appeared on a preliminary manifest for the train involved in the accident.

Subsection (c) provides that a carrier shall not be held liable under Federal or State law for action arising out of preparation or providing of passenger lists, or providing information regarding a train reservation, pursuant to a family assistance plan submitted under section 25101, except for gross negligence by the carrier or intentional misconduct by the carrier.

Subsection (d) defines "rail passenger accident" and "rail passenger carrier" to conform to section 1138, as well as defining a passenger as a person aboard a train covered by the foregoing standards that are involved in an accident.

Subsection (e) provides that section 25101 does not limit actions a rail passenger carrier may take, or its obligations, in providing assistance of families of passengers involved in a rail passenger accident.

Subsection (f) makes a conforming amendment.

Section 4

Subsection (a) requires DOT, in cooperation with NTSB, to establish a task force that includes potentially designated charitable organizations and families involved in past rail passenger accidents. (A technical change has been made in the Committee-approved text to clarify that since actual designations of charitable organizations will be made on a case-by-case basis for individual accidents, the task force will necessarily include potentially designated organizations of this type.)

Subsection (b) requires the task force to develop:

- A model plan to assist rail passenger carriers in responding to passenger train accidents.
- Recommendations on how to improve timeliness of notification to families of passengers involved in accidents.
- Recommendations on methods to ensure that non-citizen passengers receive appropriate post-accident assistance.
- Recommendations to ensure that emergency services personnel have as immediate and accurate a count as possible of passengers on board a train involved in an accident.

Subsection (c) requires the Secretary of Transportation to transmit the task force's model plan and recommendations within 1 year of enactment.

HEARINGS AND LEGISLATIVE HISTORY

No hearings were held by the Committee on H.R. 874.

COMMITTEE CONSIDERATION

On February 26, 2003, the Full Committee met in open session and favorably reported H.R. 874.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each roll call vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no roll call votes.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the bill does not authorize funding.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 874 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 12, 2003.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 874, the Rail Passenger Disaster Assistance Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact are Rachel Milberg (for federal costs), Greg Waring (for the impact on state and local governments), and Cecil McPherson (for the impact on the private sector).

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 874—Rail Passenger Disaster Family Assistance Act of 2003

The National Transportation Safety Board (NTSB) investigates every civil aviation accident and significant accidents in other modes of transportation. H.R. 874 would require the NTSB to offer assistance to the families of passengers involved in a rail accident that results in a major loss of life. H.R. 874 also would require the Secretary of Transportation to establish a task force that would recommend ways to improve family assistance and to more accurately count the number of passengers on board a train involved in an accident.

CBO estimates that implementing H.R. 874 would cost the federal government less than \$500,000 each year. Enacting H.R. 874 would not affect direct spending or receipts.

The bill would impose intergovernmental mandates and private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA). CBO estimates that the direct costs of those mandates would not exceed the annual thresholds established in UMRA in any of the next five years. The threshold for intergovernmental mandates is \$59 million in 2003, and the threshold for private-sector mandates is \$117 million in 2003; those thresholds are adjusted annually for inflation.

H.R. 874 would prohibit states from blocking the NTSB, or agencies designated to provide counseling services, from providing support to families of the victims of passenger rail accidents. The bill also would limit the liability of passenger rail carriers when they provide certain information regarding passenger lists and reservations. Those provisions would impose intergovernmental mandates under UMRA. While they would limit state authority, however, the provisions would impose no duty on states that would result in additional spending. Consequently, the threshold established in UMRA would not be exceeded.

H.R. 874 would impose three new federal mandates on the private sector, but CBO estimates that their total direct costs would fall well below the threshold (\$117 million in 2003, adjusted annually for inflation) established in UMRA. First, the bill would prohibit any person from hindering the ability of the NTSB and the nonprofit organization designated by the NTSB to carry out their responsibilities under the bill or from hindering the ability of families of passengers to contact one another.

Second, attorneys or other potential parties would be prohibited for a 45-day period from making unsolicited contact concerning potential legal action with injured passengers or family members. Information provided by the legal community indicates that state bar associations have a variety of regulations governing the action of attorneys after such disasters, but most do not prohibit such contact for a period as long as 45 days. CBO estimates that the private sector's cost of compliance with those prohibitions would be small.

The third mandate would require passenger rail carriers to submit a plan detailing assurances and procedures to be invoked in case of a railway accident involving a major loss of life. Such a plan would have to be submitted to the NTSB and to the Secretary of Transportation no later than six months after the enactment of the bill. According to industry experts, Amtrak is the only current passenger rail carrier that would be affected by the provisions in the bill. Currently, Amtrak has contingency plans for responding to the

needs of families of rail accident passengers. According to Amtrak, the additional cost of any further modifications to incorporate the provisions in the bill and the cost of submitting the plan to the NTSB would be small. There also could be direct savings to Amtrak, as the bill limits the liability of the passenger rail carrier arising from its preparing or providing a passenger list required by the bill.

The staff contacts for this estimate are Rachel Milberg (for federal costs), Greg Waring (for the state and local impact), and Cecil McPherson (for the private-sector impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE II—OTHER GOVERNMENT AGENCIES

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CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

SUBCHAPTER I—GENERAL

Sec.

1101. Definitions.

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SUBCHAPTER III—AUTHORITY

1131. General authority.

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1138. Assistance to families of passengers involved in rail passenger accidents.

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SUBCHAPTER III—AUTHORITY

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§ 1138. Assistance to families of passengers involved in rail passenger accidents

(a) *IN GENERAL.*—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

(b) *RESPONSIBILITIES OF THE BOARD.*—The Board shall have primary Federal responsibility for—

(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

(2) communicating with the families of passengers involved in the accident as to the roles of—

(A) the organization designated for an accident under subsection (a)(2);

(B) Government agencies; and

(C) the rail passenger carrier involved,

with respect to the accident and the post-accident activities.

(c) *RESPONSIBILITIES OF DESIGNATED ORGANIZATION.*—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

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

(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

(4) To arrange a suitable memorial service, in consultation with the families.

(d) PASSENGER LISTS.—

(1) REQUESTS FOR PASSENGER LISTS.—

(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

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

(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

(g) PROHIBITED ACTIONS.—

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

(2) *UNSOLICITED COMMUNICATIONS.*—No unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

(3) *PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.*—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

(h) *DEFINITIONS.*—In this section, the following definitions apply:

(1) *RAIL PASSENGER ACCIDENT.*—The term “rail passenger accident” means any rail passenger disaster occurring in the provision of—

(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation, regardless of its cause or suspected cause.

(2) *RAIL PASSENGER CARRIER.*—The term “rail passenger carrier” means a rail carrier providing—

(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation, except that such term shall not include a tourist, historic, scenic, or excursion rail carrier.

(3) *PASSENGER.*—The term “passenger” includes—

(A) an employee of a rail passenger carrier aboard a train;

(B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and

(C) any other person injured or killed in the accident.

(i) *LIMITATION ON STATUTORY CONSTRUCTION.*—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

(j) *RELINQUISHMENT OF INVESTIGATIVE PRIORITY.*—

(1) *GENERAL RULE.*—This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investiga-

tive priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

(2) *BOARD ASSISTANCE.*—If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

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SUBTITLE V—RAIL PROGRAMS

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PART C—PASSENGER TRANSPORTATION

241. GENERAL	24101
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251. FAMILY ASSISTANCE	25101
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CHAPTER 251—FAMILY ASSISTANCE

Sec.
25101. *Plans to address needs of families of passengers involved in rail passenger accidents.*

§ 25101. Plans to address needs of families of passengers involved in rail passenger accidents

(a) *SUBMISSION OF PLANS.*—Not later than 6 months after the date of the enactment of this section, each rail passenger carrier shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a train of the rail passenger carrier and resulting in a major loss of life.

(b) *CONTENTS OF PLANS.*—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

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

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1138(a)(2) of this title or the services of other suitably trained individuals.

(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

(4) An assurance that the rail passenger carrier will provide to the director of family support services designated for the accident under section 1138(a)(1) of this title, and to the organization designated for the accident under section 1138(a)(2) of this

title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier.

(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the rail passenger carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

(7) An assurance that any unclaimed possession of a passenger within the control of the rail passenger carrier will be retained by the rail passenger carrier for at least 18 months.

(8) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

(9) An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(10) An assurance that the rail passenger carrier will work with any organization designated under section 1138(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1138(a)(2) of this title for services provided by the organization.

(12) An assurance that the rail passenger carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) An assurance that the rail passenger carrier will commit sufficient resources to carry out the plan.

(14) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(15) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident.

(c) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information

concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

(d) DEFINITIONS.—In this section—

(1) the terms “rail passenger accident” and “rail passenger carrier” have the meanings such terms have in section 1138 of this title; and

(2) the term “passenger” means a person aboard a rail passenger carrier’s train that is involved in a rail passenger accident.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

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