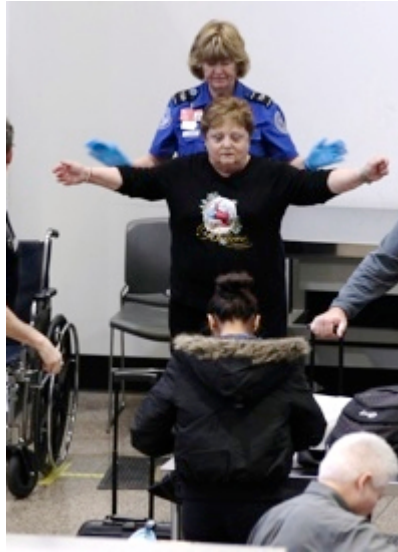




Written by [Alex Newman](#) on May 25, 2011

Feds “Mess With Texas,” Attack Anti-TSA Bill

A Texas bill that would have made Transportation Security Administration (TSA) agents liable for sexual assault when groping passengers without probable cause was pulled from the Senate floor after the Department of Justice sent a letter threatening to create what critics called a “no-fly zone” over the state by preventing flights to or from Texas airports. However, as will be demonstrated in a follow-up report by a colleague, there may well be “life after death” for this bill.



The legislation, which was aimed at securing the rights enshrined in the Fourth Amendment of the U.S. Constitution, [sailed through the Texas House](#) earlier this month as H.B. 1937 with a unanimous vote. It was then sent to the state Senate.

But before Texas senators had a chance to vote on the legislation, U.S. Attorney John E. Murphy sent high-ranking state officials a stark warning: Kill the bill or else. “Under the Supremacy Clause of the U.S. Constitution, Texas has no authority to regulate federal agents and employees in the performance of their federal duties or to pass a statute that conflicts with federal law,” Murphy alleged in [the letter](#), which was obtained by the *Lone Star Report*.

And if the legislation were enacted, Murphy threatened that the federal government would likely seek an emergency court order prohibiting its implementation. If the courts refused to stop the bill, “TSA would likely be required to cancel any flight or series of flights for which it could not ensure the safety of passengers and crew,” Murphy said, concluding with an ominous warning urging state officials to “consider the ramifications” before supporting the bill.

After the threatening letter was circulated, the Senate bill’s sponsor, Sen. Dan Patrick, was forced to withdraw the legislation from the floor. Patrick’s office confirmed to *The New American* that the state Senator did not have enough support to bring the bill up for a vote. At least a dozen senators backed down after the federal threats.

“There was a time in this state, there was a time in our history, where we stood up to the federal government and we did not cower to rules and policies that invaded the privacy of Texans,” Sen. Patrick [said](#) before withdrawing the bill. “I will pull HB 1937 down, but I will stand for liberty in the state of Texas.” He also told reporters that representatives of the TSA were allegedly “lobbying” against the bill.

But the real blame for the legislation’s setback in the Senate should be pinned on Lt. Gov. David Dewhurst, according to Sen. Patrick. “When you stand on the Senate floor and the president of the Senate calls the bill up, he’s not supposed to be working against the bill while you’re debating it,” Patrick [explained](#). “This was a case of the federal government bullying Texas, and apparently they bullied the lieutenant governor.”



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The author of the legislation, state Rep. David Simpson, was outraged as well. “The federal government is attempting to deprive the citizens of Texas of their constitutional rights under the Fourth Amendment of the United States Constitution and Article 1, Section 9, of the Texas Constitution,” he [charged](#) in response to the federal government’s bullying. “If we do not stand up for our citizens in the face of this deprivation of their personal rights and dignity, who will?”

The legislation, known as the “anti-groping” bill, was wildly popular among Texans and their lawmakers. In the absence of probable cause, it would have criminalized “intentionally, knowingly, or recklessly touching the anus, sexual organ, buttocks, or breast of the other person, including touching through clothing, or touching the other person in a manner that would be offensive to a reasonable person” by federal agents.

But the feds, of course, would have none of it. And all across the country, like in Texas, the Obama administration has been ramping up federal bullying of states.

On May 24, *The New American* reported that the administration was [threatening to withhold federal Medicaid funds from poor people in Indiana if the state refused to continue subsidizing abortion providers such as Planned Parenthood](#). And more and more states standing up for their citizens are finding themselves in federal crosshairs.

But it hasn’t gone unnoticed by critics and constitutionalists. The Tenth Amendment Center, [commenting](#) on the Department of Justice’s recent threat to enforce a “no-fly zone” against Texas, highlighted a number of other serious instances of unconstitutional federal bullying of state governments. The Center warned, however, that the feds shouldn’t celebrate their apparent victory in Texas just yet.

“As individuals are being unjustly molested on a daily basis, it is increasingly becoming apparent that there exists a strong, emotionally-charged undercurrent of resistance against the TSA and its invasive searches and seizures,” the Center [noted](#). “If anything, the withdrawal of Texas’ legislation last night should be seen as the calm before the coming storm of state-based opposition to the TSA.”

A massive campaign to resurrect the legislation being waged by a broad coalition of organizations is currently underway. Activists are being urged to contact Lt. Gov. Dewhurst and state senators to get the bill back on the floor. May 25 is the last day or the legislation will have to wait for the next session.

But Texas is not alone. At least four other states are working on similar measures. And according to the Tenth Amendment Center, at least ten more are expected to join the battle in 2012.

(May 26 update: The effort to resurrect the anti-TSA bill in the Texas state Senate prior to the end of the legislative session did not succeed, despite the strong grassroots support for the bill. For an update, [click here](#).)

Photo: A TSA officer pats down a traveler as she works his way through security at San Francisco International Airport in San Francisco, Nov. 24, 2010.



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