



Written by [Raven Clabough](#) on November 19, 2012

Texas Bills Would Nullify NDAA's Indefinite Detention, TSA's Intrusive Screening

State lawmakers in Texas are fighting to reassert their citizens' Fourth, Sixth, and Eighth Amendment rights. Republican legislators have [submitted](#) two bills, one to remove the indefinite detention provisions in the National Defense Authorization Act (NDAA), and the other to stop the intrusive screening procedures of the Transportation Security Administration (TSA).



[HB149](#), the Texas Liberty Preservation Act filed by state Rep. Lyle Larson, targets the most controversial provisions of the 2012 National Defense Authorization Act. The online Huffington Post reports,

HB 149 specifically calls out Section 1021 and 1022 of the NDAA, which were recently subjects of a federal lawsuit filed by plaintiffs concerned that the language within the passages could be used to indefinitely detain U.S. citizens.

In October, a federal appeals court [rejected](#) the notion that the indefinite detention provisions found within the NDAA pose a reasonable threat to American citizens and blocked an injunction issued by another judge in May who had determined that the NDAA did not "pass constitutional muster."

According to the appeals judges, "the public interest" outweighed the concerns raised by the plaintiffs. They determined that "the statute does not affect the existing rights of United States citizens."

Lawmakers in the Lone Star State disagree. According to HB 149, sections 1021 and 1022 of the NDAA are "inimical to the liberty, security, and well-being of the citizens of the State of Texas" and violate both federal and state constitutions.

HB 149 notes that the Tenth Amendment to the Constitution, which greatly limits the role of the federal government, has been violated as the government has usurped powers that it was not intended to have. It states,

It is the policy of this state to refuse to provide material support for or to participate in any way with the implementation within this state of Sections 1021 and 1022 of the National Defense Authorization Act for fiscal year 2012.

Violators of this statute may receive imprisonment of up to a year, a fine of no more than \$10,000, or both, according to the bill.

The Tenth Amendment Center notes that Texas is just one in a string of states that has worked to override the provisions found within the NDAA:

Local communities in Colorado sent out the first warning shots, passing resolutions and ordinances rejecting such power earlier this year.



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Then ... Virginia Governor Bob McDonnell signed House Bill 1160, making that state the first to pass a law not only rejecting the federal act, but fully banning any state agency from cooperating with the feds on it.

Over 15 local communities have reportedly done the same. And Michigan is considering similar legislation.

Residents of Texas who support the legislation are encouraged to contact their state representative and senator [here](#).

A second bill in Texas targets the controversial screening procedures of the Transportation Security Administration. [HB 80](#), filed by GOP state Rep. David Simpson, is intended to prohibit what is perceived to be federal overreach by the TSA.

The Huffington Post writes:

The measure declares that any “intentional” touching of “the [private parts] of the other person, including touching through clothing,” without probable cause would be considered a violation of the law. It would also prohibit removing a “child younger than 18 years of age from the physical custody or control of a parent or guardian of the child,” and establishes broader restrictions on harassment or inconveniencing those desiring to avoid such searches.

The bill also asserts that it is the role of the state’s attorney general to defend the statute, and lists a variety of justifications he may use to do so:

If the government of the United States, the defendant, or the defendant’s employer challenges the validity of Section 39.03(a)(4), Penal Code, as added by this Act, on grounds of unconstitutionality, preemption, or sovereign immunity, the attorney general of this state ... shall take any actions necessary on behalf of the state to defend the validity of the statute. The attorney general may make any legal arguments the attorney general considers appropriate, including that this Act constitutes a valid exercise of:

- (1) the state’s police powers;
- (2) the liberty interests of the people that are secured by the United States Constitution;
- (3) the powers reserved to the states by the Tenth Amendment to the United States Constitution; or
- (4) the rights and protections secured by the Texas Constitution.

If the bill becomes law, it will take effect in September of 2013.

This is not the first time Texas legislators have attempted to pass such a measure. In 2011, Representative David Simpson, who filed HB 80, spearheaded two bills which did not pass, HB 1937 and HB 1938, both of which specifically targeted the TSA. HB 1937 would have banned offensive touching of individuals who sought access to public buildings or transportation and punished those who broke the law. HB 1938 would have outlawed the use of “nude body scanners” at all Texas airports.

Unsurprisingly, HB 80 has garnered the favor of privacy advocates who view the TSA’s screening methods as being far too intrusive.

Tenth Amendment Center communications director Mike Maharrey said in a statement,

If you walk up to somebody and grab their crotch out on the street, it will land you in jail. Blue



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uniforms and federal badges don't grant some goon the power to sexually assault you, or at least they shouldn't.

A person doesn't forfeit her or his personal dignity or Fourth Amendment protections with the purchase of an airline ticket.

Both HB 149 and HB 80 are examples of nullification, as Texas is using the authority found within the Tenth Amendment to reject federal overreach.

Ken Hoover of The John Birch Society observed last year, "We all are aware of how the so-called 'war on terror' has been used to chip away at our liberties." Pointing to TSA procedures specifically, he continued, "It would appear that the main casualty of the 'war on terror' has been the Fourth Amendment. These intrusions need to be stopped."

Photo of Texas flag



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