

117TH CONGRESS  
2D SESSION

# H. R. 6758

To prohibit a court from awarding damages based on race, ethnicity, gender, religion, or actual or perceived sexual orientation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 2022

Mr. CASTEN (for himself, Mr. COHEN, Ms. JACKSON LEE, Mrs. DEMINGS, Mr. CARSON, Mr. NEGUSE, and Mr. LIEU) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To prohibit a court from awarding damages based on race, ethnicity, gender, religion, or actual or perceived sexual orientation, 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 “Fair Calculations in  
5 Civil Damages Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1           (1) the term “future earnings table” includes  
2           any table or compilation of economic data used to  
3           determine—

4                   (A) how many years an individual would  
5           have worked in the future; or

6                   (B) the average wage an individual would  
7           have earned in the future; and

8           (2) the term “protected class” means a group  
9           of individuals sharing a common characteristic or  
10          identity who are legally protected against discrimina-  
11          tion.

12 **SEC. 3. CALCULATIONS OF DAMAGES.**

13          (a) **IN GENERAL.**—Notwithstanding any other provi-  
14          sion of law, no court of the United States may award dam-  
15          ages to a plaintiff in a civil action using a calculation for  
16          the projected future earning potential of that plaintiff that  
17          takes into account the race, ethnicity, gender, religion, or  
18          actual or perceived sexual orientation of the plaintiff.

19          (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
20          tion shall be construed to deny a court from ordering dam-  
21          ages based on the fact that the plaintiff is a member of  
22          a protected class or for the purposes of Federal civil rights  
23          laws.

1 **SEC. 4. INCLUSIVE FUTURE EARNINGS TABLES.**

2 Not later than 180 days after the date of enactment  
3 of this Act—

4 (1) the Secretary of Labor shall develop guid-  
5 ance for forensic economists to develop inclusive fu-  
6 ture earnings tables that do not rely on race, eth-  
7 nicity, gender, religion, or actual or perceived sexual  
8 orientation; and

9 (2) the Secretary of Labor and the Attorney  
10 General shall develop guidance for States on how to  
11 make calculations of future earnings in State tort  
12 proceedings free of bias on the basis of race, eth-  
13 nicity, gender, religion, or actual or perceived sexual  
14 orientation.

15 **SEC. 5. STUDY AND REPORT.**

16 (a) JUDICIAL CONFERENCE OF THE UNITED  
17 STATES.—

18 (1) IN GENERAL.—Not later than 1 year after  
19 the date of enactment of this Act, the Judicial Con-  
20 ference of the United States shall conduct a study  
21 on—

22 (A) damages awarded under Federal law  
23 for personal injury; and

24 (B) the aggregate data described in para-  
25 graph (1)—

1 (i) by case type, including employment  
2 discrimination and tort damages;

3 (ii) by protected classes, including  
4 race, ethnicity, gender, religion, and actual  
5 or perceived sexual orientation; and

6 (iii) any other information that the  
7 Judicial Conference of the United States  
8 determines is relevant.

9 (2) REPORT.—Not later than 18 months after  
10 the date of enactment of this Act, the Judicial Con-  
11 ference of the United States shall submit to Con-  
12 gress a report on the study conducted under para-  
13 graph (1).

14 (b) ADMINISTRATIVE OFFICE OF THE UNITED  
15 STATES COURTS.—Not later than 1 year after the date  
16 of enactment of this Act, the Administrative Office of the  
17 United States Courts shall conduct a study and submit  
18 to Congress recommendations resulting from the study on  
19 how to ensure that calculations of future earning potential  
20 of plaintiffs that take into account age and disability with-  
21 out conflicting with Federal equal protection laws.

22 **SEC. 6. TRAINING.**

23 The Federal Judicial Center shall conduct training  
24 for Federal judges on how to implement this Act, includ-

- 1 ing instructions on how to use tables on future earnings
- 2 in evidence that comply with this Act.

