

118TH CONGRESS
2D SESSION

S. 5161

To amend title VI of the Civil Rights Act of 1964 to prohibit discrimination under any program or activity receiving Federal financial assistance on the ground of religion, to amend the Higher Education Act of 1965 to provide for rigorous enforcement of prohibitions against discrimination by institutions of higher education on the basis of antisemitism, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2024

Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend title VI of the Civil Rights Act of 1964 to prohibit discrimination under any program or activity receiving Federal financial assistance on the ground of religion, to amend the Higher Education Act of 1965 to provide for rigorous enforcement of prohibitions against discrimination by institutions of higher education on the basis of antisemitism, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Preventing Antisemitic
3 Harassment on Campus Act of 2024”.

4 **SEC. 2. PROHIBITION OF DISCRIMINATION ON THE**
5 **GROUND OF RELIGION.**

6 (a) IN GENERAL.—Section 601 of the Civil Rights
7 Act of 1964 (42 U.S.C. 2000d) is amended by striking
8 “or national origin” and inserting “national origin, or reli-
9 gion”.

10 (b) NON-APPLICATION.—Title VI of the Civil Rights
11 Act of 1964 (42 U.S.C. 2000d et seq.) is amended by add-
12 ing at the end the following:

13 **“SEC. 607. NON-APPLICATION OF PROHIBITION OF DIS-**
14 **CRIMINATION ON THE GROUND OF RELIGION**
15 **TO RELIGIOUS ORGANIZATIONS.**

16 “The prohibition of discrimination under any pro-
17 gram or activity receiving Federal financial assistance on
18 the ground of religion under this title shall not apply to
19 a program or activity that is conducted or controlled by,
20 or is otherwise affiliated with, a religious organization, in-
21 cluding a student religious organization.”.

22 (c) HARASSMENT.—Section 601 of the Civil Rights
23 Act of 1964 (42 U.S.C. 2000d) is amended—

24 (1) by striking “No person” and inserting the
25 following: **“PROHIBITION OF DISCRIMINA-**
26 **TION.—**

1 “(a) IN GENERAL.—No person”; and

2 (2) by adding at the end the following:

3 “(b) INCLUSION OF INDIFFERENCE TO HARASS-
 4 MENT.—The term ‘discrimination’, for purposes of this
 5 title and with respect to an educational program or activ-
 6 ity of a college, university, or other postsecondary institu-
 7 tion, or a public system of higher education, includes delib-
 8 erate indifference to harassment that is so severe, perva-
 9 sive, and objectively offensive, and that so undermines and
 10 detracts from a victim’s educational experience, that the
 11 victim is effectively denied equal access to the resources
 12 and opportunities of the educational program or activity.”.

13 (d) POLICY.—

14 (1) IN GENERAL.—It shall be the policy of the
 15 United States to enforce title VI of the Civil Rights
 16 Act of 1964 (42 U.S.C. 2000d et seq.) against pro-
 17 hibited forms of discrimination rooted in anti-
 18 semitism no less vigorously than against all other
 19 forms of discrimination prohibited by such title VI.

20 (2) DEFINITION OF ANTISEMITISM.—In this
 21 subsection, the term “antisemitism” means a certain
 22 perception of Jews, which may be expressed as ha-
 23 tred toward Jews, and the rhetorical and physical
 24 manifestations of which are directed toward—

1 (A) Jewish or non-Jewish individuals or
 2 their property; or

3 (B) Jewish community institutions or reli-
 4 gious facilities.

5 **SEC. 3. AMENDMENT TO THE HIGHER EDUCATION ACT OF**
 6 **1965.**

7 Part B of title I of the Higher Education Act of 1965
 8 (20 U.S.C. 1011 et seq.) is amended by adding at the end
 9 the following:

10 **“SEC. 124. SANCTIONS FOR NONCOMPLIANCE WITH TITLE**
 11 **VI.**

12 “(a) DEFINITION OF INSTITUTION OF HIGHER EDU-
 13 CATION.—In this section, the term ‘institution of higher
 14 education’ has the meaning given the term in section 102.

15 “(b) SANCTIONS FOR CERTAIN VIOLATIONS.—

16 “(1) SANCTIONS.—

17 “(A) IN GENERAL.—Notwithstanding sec-
 18 tion 602 of the Civil Rights Act of 1964 (42
 19 U.S.C. 2000d–1), an institution of higher edu-
 20 cation that receives Federal financial assistance
 21 under this Act and is found, by the Office for
 22 Civil Rights of the Department, to be in viola-
 23 tion of title VI of the Civil Rights Act of 1964
 24 (42 U.S.C. 2000d et seq.) with respect to
 25 antisemitic discrimination in a program or ac-

1 tivity as described in subparagraph (B) or (C)
2 shall be subject to the sanction provided in sub-
3 paragraph (B) or (C), after the Secretary—

4 “(i) notifies the institution of such
5 finding; and

6 “(ii) provides the institution with an
7 opportunity for a hearing.

8 “(B) TWO VIOLATIONS.—In the case of a
9 particular program of an institution that vio-
10 lates title VI of the Civil Rights Act of 1964
11 (42 U.S.C. 2000d et seq.) with respect to
12 antisemitic discrimination for a second time
13 within the 5-year period preceding the date of
14 the second violation, the Secretary shall impose
15 a fine on the institution in an amount that is
16 not less than 10 percent of the Federal finan-
17 cial assistance received under this Act by the
18 particular program of the institution in which
19 the violation was found during the year of the
20 second violation (regardless of how long the in-
21 stitution remains in violation) and any subse-
22 quent year during which the institution remains
23 in violation for not less than 90 days.

24 “(C) THREE VIOLATIONS.—In the case of
25 a particular program of an institution that vio-

1 lates title VI of the Civil Rights Act of 1964
 2 (42 U.S.C. 2000d et seq.) with respect to
 3 antisemitic discrimination for a third time with-
 4 in the 5-year period preceding the date of the
 5 third violation, the Secretary shall impose a fine
 6 on the institution in an amount that is not less
 7 than 33 percent of the Federal financial assist-
 8 ance received under this Act by the particular
 9 program of the institution in which the violation
 10 was found during the year of the third violation
 11 (regardless of how long the institution remains
 12 in violation) and any subsequent year during
 13 which the institution remains in violation for
 14 not less than 90 days.

15 “(2) WAIVER.—For purposes of imposing sanc-
 16 tions under paragraph (1), the Secretary may treat
 17 violations described in paragraph (1) as a single vio-
 18 lation if the violations—

19 “(A) are in relation to discrimination that
 20 was conducted by a person other than the insti-
 21 tution or its faculty or staff; and

22 “(B) occurred within a span of not more
 23 than 24 hours.

24 “(c) MONITORING.—The Secretary shall monitor pri-
 25 vate lawsuits brought against institutions of higher edu-

1 cation that receive Federal financial assistance under this
2 Act for a violation of title VI of the Civil Rights Act of
3 1964 (42 U.S.C. 2000d et seq.) with respect to antisemitic
4 discrimination to independently evaluate whether the insti-
5 tution violated title VI of the Civil Rights Act of 1964
6 (42 U.S.C. 2000d et seq.) with respect to antisemitic dis-
7 crimination.

8 “(d) NOTIFICATION TO STUDENTS, FACULTY, AND
9 STAFF.—An institution of higher education that receives
10 Federal financial assistance under this Act and is found
11 to be in violation of title VI of the Civil Rights Act of
12 1964 (42 U.S.C. 2000d et seq.) with respect to antisemitic
13 discrimination shall provide a notification of such finding
14 to all enrolled students, faculty, and staff of the institu-
15 tion.

16 “(e) REPORT.—The Secretary shall submit a full
17 written report to the Committee on Health, Education,
18 Labor, and Pensions of the Senate and the Committee on
19 Education and the Workforce of the House of Representa-
20 tives with respect to each action to impose a fine under
21 subsection (b) that includes the circumstances and
22 grounds for such action.”.

1 **SEC. 4. AMENDMENTS TO CIVIL RIGHTS ACT OF 1964.**

2 Title VI of the Civil Rights Act of 1964 (42 U.S.C.
3 2000d et seq.), as amended by section 2, is further amend-
4 ed by adding at the end the following:

5 **“SEC. 608. FACTORS IN DETERMINATION OF NONCOMPLI-**
6 **ANCE; MONITOR.**

7 “(a) FACTORS.—Each Federal department and agen-
8 cy in determining whether a person is in compliance with
9 a requirement adopted pursuant to section 602, and court
10 in determining whether a person has violated this title,
11 shall make considerations, including of the following fac-
12 tors:

13 “(1) The person’s prevention of discrimination,
14 and remediation (including disciplining faculty and
15 staff) with respect to discrimination, on the basis of
16 another ground provided in section 601.

17 “(2) The person’s prevention of discrimination,
18 and remediation (including disciplining faculty and
19 staff) with respect to discrimination, against another
20 group on the basis of the same ground for which the
21 determination of compliance or a violation is being
22 made.

23 “(b) MONITOR.—A court that finds a violation of this
24 title or upholds a department or agency determination of
25 noncompliance with a requirement adopted pursuant to
26 section 602 may appoint a monitor to review and report

1 on the implementation of any remedy with respect to such
2 finding or determination.”.

3 **SEC. 5. RULES OF CONSTRUCTION.**

4 Nothing in this Act, or any of the amendments made
5 under this Act, shall be construed—

6 (1) to expand the authority of the Secretary of
7 Education;

8 (2) to infringe on, or otherwise diminish, the
9 rights protected under any other provision of law;

10 (3) to create any negative inference as to either
11 the legal protections provided to victims of anti-
12 semitism or the prohibitions on antisemitic discrimi-
13 nation by Federal law prior to date of enactment of
14 this Act; and

15 (4) to infringe on, diminish, or otherwise con-
16 flict with any right protected under the First
17 Amendment to the Constitution of the United
18 States.

19 **SEC. 6. SEVERABILITY.**

20 If any provision of this Act, an amendment made by
21 this Act, or the application of such provision or amend-
22 ment to any person or circumstance is held to be unconsti-
23 tutional, the remainder of this Act, the amendments made
24 by this Act, and the application of such provisions and

- 1 amendments to any other person or circumstance shall not
- 2 be affected.

