

116TH CONGRESS  
1ST SESSION

# H. R. 4418

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

SEPTEMBER 19, 2019

Mr. KENNEDY (for himself and Mr. CASTEN of Illinois) 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 2019”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act—

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

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

3 (B) the average wage an individual would  
4 have earned in the future; and

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

9 **SEC. 3. CALCULATIONS OF DAMAGES.**

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

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

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

22 Not later than 180 days after the date of enactment  
23 of this Act—

24 (1) the Secretary of Labor shall develop guid-  
25 ance for forensic economists to develop inclusive fu-

1       ture earnings tables that do not rely on race, eth-  
2       nicity, gender, religion, or actual or perceived sexual  
3       orientation; and

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

10 **SEC. 5. STUDY AND REPORT.**

11       (a) JUDICIAL CONFERENCE OF THE UNITED  
12 STATES.—

13           (1) IN GENERAL.—Not later than 1 year after  
14       the date of enactment of this Act, the Judicial Con-  
15       ference of the United States shall conduct a study  
16       on—

17           (A) damages awarded under Federal law  
18       for personal injury; and

19           (B) the aggregate data described in para-  
20       graph (1)—

21           (i) by case type, including employment  
22       discrimination and tort damages;

23           (ii) by protected classes, including  
24       race, ethnicity, gender, religion, and actual  
25       or perceived sexual orientation; and

1 (iii) any other information that the  
2 Judicial Conference of the United States  
3 determines is relevant.

4 (2) REPORT.—Not later than 18 months after  
5 the date of enactment of this Act, the Judicial Con-  
6 ference of the United States shall submit to Con-  
7 gress a report on the study conducted under para-  
8 graph (1).

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

17 **SEC. 6. TRAINING.**

18 The Federal Judicial Center shall conduct training  
19 for Federal judges on how to implement this Act, includ-  
20 ing instructions on how to use tables on future earnings  
21 in evidence that comply with this Act.

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