

1. HOUSE BILL TEXT

“Civil Rights Clarification and Restoration Act of 2027”

(H.R. ____)

____ TH CONGRESS

1ST SESSION

H. R. ____

To clarify the meaning of the term “**discrimination**” in federal civil rights laws as referring to invidious discrimination, to reaffirm the validity of disparate-impact analysis under federal law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr./Ms. _____ introduced the following bill; which was referred to the Committee on _____.

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “**Civil Rights Clarification and Restoration Act of 2027.**”

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) **Findings.**— Congress finds the following:

1. Federal civil rights statutes, including but not limited to the **Civil Rights Act of 1964**, the **Voting Rights Act of 1965**, the **Fair Housing Act of 1968**, and related enactments, were adopted to combat and dismantle **invidious discrimination**

directed against individuals and groups based on race, color, national origin, sex, religion, and other protected characteristics.

2. The legislative debates, committee reports, and contemporaneous public understanding at the time of enactment reflect that the term “**discrimination**” in these statutes was understood and intended to refer to **invidious discrimination**—that is, unjust, prejudicial, exclusionary, or subordinating treatment—rather than all forms of differential treatment *simpliciter*.
3. Congress recognizes that invidious discrimination can occur through **intentional discriminatory acts** as well as through **neutral-appearing policies and practices** that have the effect of perpetuating, reinforcing, or reproducing historical patterns of exclusion and subordination.
4. The Supreme Court in **Griggs v. Duke Power Co., 401 U.S. 424 (1971)**, and subsequent decisions, has recognized that civil rights statutes reach practices that are fair in form but discriminatory in operation, and that **disparate impact** may be probative of unlawful discrimination where policies significantly disadvantage members of a protected class without substantial justification and where less discriminatory alternatives are available.
5. In **United Steelworkers v. Weber, 443 U.S. 193 (1979)**, and related cases, the Court has acknowledged that remedial and race-conscious measures, when properly tailored, are consistent with the remedial purposes of federal civil rights statutes and do not constitute invidious discrimination.
6. In **Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519 (2015)**, the Court recognized the validity of disparate-impact claims under the Fair Housing Act, emphasizing the importance of rooting out policies that unjustifiably perpetuate segregative effects.
7. Recent interpretations and applications of civil rights laws have, in some instances, construed “discrimination” in an unduly abstract, generic manner, and ahistorical manner, as though the statutes forbid any and all distinctions or race-conscious interventions, without regard to context, historical inequities, remedial purpose, or disparate impact.
8. Such interpretations risk undermining the **original remedial and anti-subordination purposes** of federal civil rights laws by treating efforts to address

inequality as if they were equivalent to the practices that created and perpetuated such inequality.

(b) **Purpose.**—

The purposes of this Act are—

1. to **clarify** that the term “discrimination” in federal civil rights statutes is best understood as referring to **invidious discrimination**;
2. to **reaffirm** that **disparate-impact analysis** is an appropriate and important method of identifying invidious discrimination, consistent with Supreme Court precedent;
3. to **confirm** that remedial, race-conscious and gender-conscious measures designed to address the present effects of past and ongoing invidious discrimination are permissible under federal law; and
4. to **restore and reinforce** the anti-subordination and remedial aims that motivated the enactment of federal civil rights statutes.

SEC. 3. DEFINITIONS.

For purposes of this Act and, unless otherwise expressly specified, for purposes of interpreting the term “discrimination” in federal civil rights statutes:

1. **Invidious discrimination.**— The term “invidious discrimination” means discrimination that is unjust, exclusionary, prejudicial, harmful, or subordinating toward individuals or groups based on their membership in a protected class, and includes—
 - (A) discrimination motivated by explicit prejudice, animus, or stereotypes; and
 - (B) facially neutral policies or practices that, in operation, **foreseeably** and **significantly** disadvantage members of a protected class and thereby perpetuate or reinforce historical patterns of exclusion, subordination, or inequality, where such policies or practices are not justified by substantial, legitimate, and nondiscriminatory objectives, or where less discriminatory alternatives are reasonably available.
2. **Discrimination simpliciter.**— The term “discrimination simpliciter” means any differential treatment or classification **without regard to context, historical inequity, remedial purpose, or impact**, and does not itself constitute invidious discrimination absent the elements described in paragraph (1).

3. **Protected class.**— The term “protected class” means, as applicable under the relevant statute, individuals or groups defined by race, color, religion, sex (including pregnancy, sexual orientation, and gender identity where so recognized), national origin, disability, age, familial status, or any other category expressly protected by federal civil rights law.

SEC. 4. CLARIFICATION OF “DISCRIMINATION” IN THE CIVIL RIGHTS ACT OF 1964 AND RELATED STATUTES.

(a) **Civil Rights Act of 1964.**—

In interpreting Titles II, III, IV, VI, and VII of the **Civil Rights Act of 1964**, the term “discrimination” shall be construed to mean **invidious discrimination** as defined in section 3, and not discrimination simpliciter.

(b) **Voting Rights Act of 1965.**—

Section 2 of the **Voting Rights Act of 1965** and other provisions prohibiting discrimination in voting shall be interpreted to prohibit:

1. voting practices or procedures adopted or maintained with the intent to cause invidious discrimination; and
2. voting practices or procedures that, in their totality and in light of social, historical, and political conditions, result in a **disparate impact** on members of a protected class by perpetuating or worsening barriers to equal political participation, where such practices are not justified by substantial, legitimate, and nondiscriminatory objectives, or where less discriminatory alternatives exist.

(c) **Other federal civil rights statutes.**—

Unless a statute expressly provides otherwise, any reference to “discrimination” in federal civil rights laws—including but not limited to the **Fair Housing Act**, **Title IX of the Education Amendments of 1972**, the **Americans with Disabilities Act**, and **Section 504 of the Rehabilitation Act**—shall be construed in a manner consistent with the definitions and clarifications set forth in this Act.

SEC. 5. REAFFIRMATION OF DISPARATE-IMPACT ANALYSIS.

(a) **Recognition.**—

Congress reaffirms that **disparate-impact analysis** is a legitimate and necessary

interpretive tool under federal civil rights statutes for identifying invidious discrimination, consistent with Supreme Court precedents including, but not limited to—

1. **Griggs v. Duke Power Co., 401 U.S. 424 (1971);**
2. **Albemarle Paper Co. v. Moody, 422 U.S. 405 (1975);**
3. **Dothard v. Rawlinson, 433 U.S. 321 (1977);**
4. **Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989)** (as subsequently modified by statute); and
5. **Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519 (2015).**

(b) Application.—

Courts and agencies applying federal civil rights statutes shall consider evidence of disparate impact where:

1. a policy, practice, or standard produces significant adverse effects on members of a protected class compared to others;
2. those adverse effects perpetuate or exacerbate patterns of historical invidious discrimination; and
3. there exist reasonably available alternative policies, practices, or standards that would serve substantially similar legitimate objectives with less discriminatory effect.

(c) Intent and effect.—

Nothing in this section shall be construed to preclude proof of intentional discrimination; rather, disparate-impact evidence may be used alongside or independently of proof of intent as appropriate under the applicable statute.

SEC. 6. PERMISSIBLE REMEDIAL AND RACE-CONSCIOUS MEASURES.

(a) Remedial measures.—

Consistent with the remedial purposes of federal civil rights statutes, it shall not constitute invidious discrimination under federal law for a covered entity to adopt race-conscious, gender-conscious, or otherwise class-conscious policies or practices that are:

1. designed and reasonably tailored to **remedy** the present effects of past invidious discrimination;
2. intended to **prevent the perpetuation** of such discrimination; or
3. structured to **ensure equal access** to opportunities in employment, education, housing, voting, public accommodations, and federally assisted programs where persistent disparities rooted in historical discrimination are demonstrated.

(b) Limits.—

Remedial or race-conscious measures that inflict unjust, arbitrary, or disproportional harm on persons in a manner that cannot be justified by their remedial objectives may themselves be subject to challenge as invidious discrimination.

(c) No presumption of illegality.—

The mere fact that a policy takes account of race, sex, or other protected characteristics **for remedial purposes** shall not by itself create a presumption of illegality under federal civil rights statutes.

SEC. 7. RULE OF CONSTRUCTION; CONSTITUTIONAL AUTHORITY.

(a) Rule of construction.—

Nothing in this Act shall be construed to:

1. limit Congress's authority under Section 2 of the Thirteenth Amendment or Sections 5 of the Fourteenth and Fifteenth Amendments;
2. supersede any provision of federal law that provides broader substantive protection against discrimination; or
3. narrow existing protections for individuals or groups under federal civil rights statutes.

(b) Constitutional authority.—

Congress enacts this Act pursuant to its powers under the **Thirteenth, Fourteenth, and Fifteenth Amendments**, the **Spending Clause**, and the **Commerce Clause** of the Constitution.

SEC. 8. IMPLEMENTATION AND RULEMAKING.

(a) Agency regulations.—

Not later than 18 months after the date of enactment of this Act, the Attorney General, the Equal Employment Opportunity Commission, the Department of Education, the Department of Housing and Urban Development, and any other relevant federal agencies shall promulgate regulations or issue guidance as necessary to implement and harmonize their enforcement policies with this Act.

(b) Guidance.—

Such regulations and guidance shall, as appropriate—

1. incorporate the definitions of invidious discrimination and disparate-impact analysis set forth in this Act;
2. provide illustrative examples of practices that may constitute invidious discrimination;
3. clarify the conditions under which remedial, race-conscious, or gender-conscious measures are permissible; and
4. ensure that enforcement policies remain consistent with the remedial and anti-subordination purposes of federal civil rights law.

SEC. 9. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment and shall apply to all actions, proceedings, and enforcement matters pending or commenced on or after such date, to the maximum extent permitted by the Constitution.

2. COMPANION SENATE BILL

(S. ____ – same substance, Senate formatting)

____TH CONGRESS

1ST SESSION

S. ____

To clarify the meaning of the term “discrimination” in federal civil rights laws as referring to invidious discrimination, to reaffirm the validity of disparate-impact analysis under federal law, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr./Ms. ____ introduced the following bill; which was read twice and referred to the Committee on ____

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[Text of the bill is identical to H.R. __ above, mutatis mutandis.]

You can literally paste the House text into the Senate bill, adjusting only the header/intro lines and any committee references.

3. FULL COMMITTEE REPORT

(House Committee on the Judiciary – Example)

What follows is a **substantive, multi-section report**. In Word, this would reasonably run **12–20 pages** depending on formatting (double-spaced, margins, etc.).

[Draft]

118TH CONGRESS

1ST Session

**HOUSE OF REPRESENTATIVES
REPORT**

–

CIVIL RIGHTS CLARIFICATION AND RESTORATION ACT OF 2027

December __, 2027.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr./Ms. _____, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. ____]

CONTENTS

1. Purpose and Summary
2. Background and Need for the Legislation
3. Legislative History
4. Section-by-Section Analysis
5. Constitutional Authority Statement
6. Committee Consideration
7. Committee Votes
8. Oversight Findings
9. New Budget Authority and Tax Expenditures
10. Congressional Budget Office Cost Estimate

11. Federal Mandates Statement
 12. Performance Goals and Objectives
 13. Advisory Committee Statement
 14. Applicability to Legislative Branch
 15. Duplication of Federal Programs
 16. Disclosure of Directed Rulemakings
 17. Section 102(b)(3) of the Congressional Budget Act
 18. Changes in Existing Law
 19. Minority / Additional Views (if any)
-

I. PURPOSE AND SUMMARY

H.R. ____, the “**Civil Rights Clarification and Restoration Act of 2027**”, clarifies that the term “**discrimination**” in federal civil rights statutes is properly understood to mean **invidious discrimination**—unjust, exclusionary, and subordinating treatment directed at individuals and groups based on protected characteristics—and not discrimination in the abstract or “discrimination simpliciter.”

The bill further **reaffirms disparate-impact analysis** as an essential tool for identifying invidious discrimination, particularly where apparently neutral policies perpetuate historical patterns of inequality, and confirms that **remedial race-conscious and gender-conscious measures** consistent with the anti-subordination purposes of civil rights laws are permissible under federal law.

By doing so, the bill seeks to **restore and codify** the longstanding understanding of federal civil rights statutes that prevailed for decades after enactment, and to **prevent misinterpretations** that would treat efforts to remedy discrimination as equivalent to the discriminatory practices they are meant to dismantle.

II. BACKGROUND AND NEED FOR THE LEGISLATION

A. Historical Context of Federal Civil Rights Statutes

The Civil Rights Act of 1964, the Voting Rights Act of 1965, and subsequent legislation were enacted in response to pervasive systems of racial and sex-based hierarchy. Congress understood that **formal equality alone**—mere neutrality in legal language—would not dismantle entrenched patterns of segregation, exclusion, and subordination.

Legislators, courts, and agencies all recognized that discrimination could be **subtle, structural, and systemic**, manifesting through neutral-appearing rules that effectively barred historically disadvantaged groups from equal access to employment, education, housing, and political participation.

B. Invidious Discrimination vs. Discrimination Simpliciter

Federal civil rights statutes focus on **invidious discrimination**—discrimination that arises from prejudice, stereotypes, hierarchical assumptions, or practices that perpetuate such structures. The statutes were not designed to prohibit all instances in which decisionmakers notice or classify individuals by race or sex; rather, they were designed to address **unjust and harmful uses** of those classifications.

Over time, some arguments and decisions have tended to collapse this distinction, treating **any** race-conscious policy as presumptively suspect or equivalent to the conduct that civil rights laws were enacted to prevent. This drift risks undermining remedial policies, including outreach, targeted recruitment, or narrowly tailored inclusive practices that respond to continuing inequalities.

C. Disparate Impact as a Diagnostic Tool

In **Griggs v. Duke Power Co. (1971)**, the Supreme Court held that Title VII of the Civil Rights Act of 1964 reaches practices that are “fair in form, but discriminatory in operation.” Employment tests and diploma requirements that were unrelated to job performance but disproportionately excluded African American applicants violated Title VII, even without a showing of subjective animus.

Subsequent cases, including **Albemarle Paper Co. v. Moody** and **Inclusive Communities Project**, confirmed that **disparate-impact analysis** is a lawful and important means of uncovering practices that perpetuate historic discrimination. Sometimes, discrimination is best understood not by explicit slurs or overt barriers, but by the **patterns of exclusion** produced by neutral-looking rules.

Without explicit statutory clarification, there is a risk that courts or agencies may narrow or misinterpret the role of disparate impact, undermining a central pillar of civil rights enforcement.

D. Need for Clarifying Legislation

Given recent debates and evolving jurisprudence, Congress finds it necessary to **restate clearly** that:

1. “Discrimination” in these statutes means **invidious discrimination**, not all differential treatment in the abstract;
2. **Disparate impact** remains a valid sign and measure of invidious discrimination; and
3. **Remedial, race-conscious and gender-conscious interventions**, appropriately tailored to address persistent inequities, are consistent with the remedial purposes of the law.

Clarification at the statutory level will help ensure **consistency and fidelity** to the original purposes of federal civil rights laws and provide clear guidance to courts, agencies, and regulated entities.

III. LEGISLATIVE HISTORY

H.R. ____ was introduced on _____, 2027, by Representative _____, and referred to the **Committee on the Judiciary**. The Subcommittee on the Constitution, Civil Rights, and Civil Liberties held a hearing on the bill on _____, 2027.

At that hearing, the Committee received testimony from civil rights scholars, former and current federal enforcement officials, and practitioners representing affected communities and regulated entities. Witnesses discussed:

- the historical understanding of “invidious discrimination”;
- the role of disparate-impact analysis;
- the ongoing need for remedial and inclusive measures; and
- the potential harms of adopting a purely formal, “color-blind” but context-insensitive understanding of discrimination.

Following the hearing, the Subcommittee marked up the bill and ordered it favorably reported to the full Committee, with amendments. On _____, 2027, the Committee on the Judiciary met to consider H.R. ____, adopted a substitute amendment, and ordered the bill favorably reported by a vote of –.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

Provides the short title “Civil Rights Clarification and Restoration Act of 2027.”

Section 2. Congressional Findings and Purpose

Summarizes the historical and jurisprudential context of federal civil rights law and states Congress’s intent to reaffirm anti-subordination principles and clarify the meaning of “discrimination.”

Section 3. Definitions

Defines “invidious discrimination,” “discrimination simpliciter,” and “protected class” for purposes of the Act and as interpretive guidance for other civil rights statutes.

Section 4. Clarification of “Discrimination” in the Civil Rights Act of 1964 and Related Statutes

Directs courts and agencies to interpret “discrimination” in key statutes (including the Civil Rights Act and Voting Rights Act) as referring to invidious discrimination and clarifies that practices with unjustifiable disparate impacts are within the ambit of these laws.

Section 5. Reaffirmation of Disparate-Impact Analysis

Codifies, in general terms, the disparate-impact framework derived from cases such as **Griggs** and **Inclusive Communities Project**, and directs courts and agencies to consider disparate impact in appropriate cases.

Section 6. Permissible Remedial and Race-Conscious Measures

Affirms that narrowly tailored remedial and inclusive policies designed to address the present effects of past discrimination or persisting inequities are consistent with the statutes’ anti-subordination purposes and are not, merely by virtue of being race-conscious, unlawful.

Section 7. Rule of Construction; Constitutional Authority

Specifies that the Act is not intended to narrow existing rights and is enacted pursuant to Congress’s powers under the Thirteenth, Fourteenth, and Fifteenth Amendments, as well as the Commerce and Spending Clauses.

Section 8. Implementation and Rulemaking

Requires relevant federal agencies to issue regulations and guidance consistent with the Act.

Section 9. Severability

Includes a standard severability clause to preserve the remainder of the Act if any portion is invalidated.

Section 10. Effective Date

Provides that the Act takes effect upon enactment and applies to pending and future matters to the extent constitutionally permissible.

V. CONSTITUTIONAL AUTHORITY STATEMENT

Article I, Section 8 (Commerce Clause and Necessary and Proper Clause), Section 2 of the Thirteenth Amendment, Section 5 of the Fourteenth Amendment, and Section 2 of the Fifteenth Amendment provide authority for the enactment of this legislation. These provisions empower Congress to enforce civil rights protections and to remedy the effects of past and ongoing discrimination.

VI. COMMITTEE CONSIDERATION

On _____, 2027, the Committee on the Judiciary met in open session, considered H.R. ____, adopted an amendment in the nature of a substitute, and ordered the bill reported favorably by a recorded vote of –.

VII. COMMITTEE VOTES

[List of votes, including any amendments offered and recorded votes; for drafting purposes you can add placeholders.]

VIII. OVERSIGHT FINDINGS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee has oversight responsibility for civil rights enforcement and the judiciary. The Committee finds that clarification of the meaning of “discrimination” and reaffirmation of disparate-impact analysis are necessary to ensure the effective enforcement of federal civil rights law.

IX. NEW BUDGET AUTHORITY AND TAX EXPENDITURES

The bill is not expected to create substantial new budget authority or tax expenditures. Implementation is expected to be carried out within existing agency budgets, with possible modest administrative costs associated with issuing guidance and training personnel.

X. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

[In actual practice, this would be filled with a formal CBO estimate. For drafting, note that the bill primarily clarifies interpretation rather than creating new entitlement programs.]

XI. FEDERAL MANDATES STATEMENT

The bill does not impose intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 beyond existing obligations under federal civil rights law.

XII. PERFORMANCE GOALS AND OBJECTIVES

The central performance goal of this legislation is to **enhance the effectiveness and clarity** of civil rights enforcement by:

1. providing clear statutory guidance on the meaning of “invidious discrimination”;
 2. ensuring that enforcement agencies appropriately consider disparate impact; and
 3. preserving and encouraging targeted, lawful remedial efforts.
-

XIII. ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of the Federal Advisory Committee Act are created by this legislation.

XIV. APPLICABILITY TO LEGISLATIVE BRANCH

The legislation does not specifically address employment practices of the legislative branch. Any such coverage would be mediated through existing mechanisms such as the Congressional Accountability Act.

XV. DUPLICATION OF FEDERAL PROGRAMS

The Committee finds that this bill does not create new federal programs that substantially duplicate or overlap existing programs; it clarifies interpretation and enforcement of statutes already in place.

XVI. DISCLOSURE OF DIRECTED RULEMAKINGS

The bill requires federal agencies to issue regulations and guidance consistent with the Act, as described in Section 8.

XVII. SECTION 102(b)(3) OF THE CONGRESSIONAL BUDGET ACT

The Committee finds that this legislation does not contain provisions inconsistent with Section 102(b)(3) of the Congressional Budget Act.

XVIII. CHANGES IN EXISTING LAW

In a final version, this section would set forth, in comparative print or statutory format, how the Act modifies existing civil rights statutes by addition or clarification. For drafting purposes, the substantive change is interpretive: “discrimination” is clarified to mean **invidious discrimination**, and disparate-impact analysis is reaffirmed as a valid tool for identifying such discrimination.

XIX. MINORITY / ADDITIONAL VIEWS