Clarifying Civil Rights Remedies Act of 2026

Sponsored by Senator Patty Murray and Senator Dick Durbin

BACKGROUND

Starting with the Civil Rights Act of 1964, Congress has passed a series of anti-discrimination laws to prohibit recipients of federal funds from discriminating on the basis of race, color, national origin, sex, disability, and age. Part of Congress' goals in passing these laws was to remedy the harm caused by such discrimination, and Congress recognized that the harm from discrimination does not always manifest in significant physical or economic injuries. Instead, victims often suffer from emotional distress such as humiliation, anxiety, depression, shame, and anguish, long after the discrimination has occurred.[1]

Yet, in April 2022, the U.S. Supreme Court, in *Cummings v. Premier Rehab Keller*, unduly narrowed the remedies available under the Rehabilitation Act (Section 504) and the Affordable Care Act to exclude emotional distress damages—and federal district courts have also begun to foreclose emotional distress damages under other anti-discrimination statutes, including sex discrimination.[2] But without the ability to recover emotional damages, those who experience discrimination—even egregious violations of the law—may have no remedy at all. Moreover, absent the threat of emotional distress damages, bad actors may not be deterred from discrimination—and entities may even reduce their efforts to limit discrimination.

The Clarifying Civil Rights Remedies Act of 2026 would clarify that damages for emotional harm are available to victims of discrimination, ensure that those victims have recourse, and maintain critical incentives that encourage recipients of federal funds to comply with federal civil rights laws. Critically, given the courts' trend limiting the Spending Clause statutes' application and remedies, this legislative action also makes these remedies explicit and clarifies Congress's authority under Section 5 of the Fourteenth Amendment.

LEGISLATIVE SUMMARY

- Makes explicit that the remedies available for violations under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and Section 1557 of the Affordable Care Act include compensatory damages, including for emotional harm.

- Clarifies that Congress has authority under both the Spending Clause and Section 5 of the Fourteenth Amendment to enact this bill.

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[1] Jonathan Lave, Maggie Sklar, Avra Van der Zee, A right without a remedy: an analysis of the decisions by the district court and Eleventh Circuit in *Sheely v. MRI Radiology Network* and the Implications for Disabled Americans' Ability to Receive Emotional Damages under the Rehabilitation Act and the ADA, 4 SETON HALL CIRCUIT REVIEW 1 (2007), https://scholarship.shu.edu/cgi/viewcontent.cgi?article=1000&context=circuit_review.

[2] *See, e.g., Doe v. Bd. of Regents of Univ. of Nebraska*, No. 4:20CV3036, 2022 WL 3566990, at *4 (D. Neb. Aug. 18, 2022) (prohibiting emotional distress damages under Title IX); *Doe 1 v. Curators of Univ. of Missouri*, No. 19-CV-04229-NKL, 2022 WL 3366765, at *2-*3 (W.D. Mo. Aug. 15, 2022) (same); *Bonnewitz v. Baylor Univ.*, 6:21-cv-00491 (W.D. Texas July 12, 2022) (same).