

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3680

To amend the Revised Statutes to restore standards for proving intentional discrimination.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. OWENS (for himself and Mr. HASTINGS) introduced the following bill; which was referred jointly to the Committees on Education and Labor and the Judiciary

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## A BILL

To amend the Revised Statutes to restore standards for proving intentional discrimination.

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 “Civil Rights Standards  
5 Restoration Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the Supreme Court enunciated a method of  
9 proving intentional discrimination under Federal law  
10 in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792

1 (1973), and Texas Department of Community  
2 Affairs v. Burdine, 450 U.S. 248 (1981);

3 (2) such method has been applied to establish  
4 intentional discrimination in cases and proceedings  
5 under title VII of the Civil Rights Act of 1964 (42  
6 U.S.C. 2000e et seq.), title VIII of the Civil Rights  
7 Act of 1968 (42 U.S.C. 3601 et seq.), the Age Dis-  
8 crimination in Employment Act of 1967 (29 U.S.C.  
9 621 et seq.), and other Federal laws; and

10 (3) the standards established in St. Mary's  
11 Honor Center v. Hicks, No. 92-602 (1993), regard-  
12 ing the effect of a finding of pretext on proof of un-  
13 lawful intentional discrimination, are contrary to—

14 (A) such method established by the Su-  
15 preme Court in McDonnell Douglas Corp. v.  
16 Green and Texas Department of Community  
17 Affairs v. Burdine; and

18 (B) congressional intent regarding such  
19 Federal laws.

20 **SEC. 3. PURPOSES.**

21 The purposes of this Act are—

22 (1) to restore the standards (regarding the  
23 effect of a finding of pretext on proof of unlawful in-  
24 tentional discrimination) enunciated by the Supreme  
25 Court in McDonnell Douglas Corp. v. Green and

1 Texas Department of Community Affairs v. Burdine  
2 as part of a method of proving intentional discrimi-  
3 nation; and

4 (2) to ensure the application of such restored  
5 standards in all cases and proceedings under Fed-  
6 eral law (including title VII of the Civil Rights Act  
7 of 1964, title VIII of the Civil Rights Act of 1968,  
8 the Age Discrimination in Employment Act of 1967,  
9 and other Federal laws) to which such method  
10 applies.

11 **SEC. 4. STANDARDS FOR PROVING INTENTIONAL DISCRIMI-**  
12 **NATION IN CERTAIN CIRCUMSTANCES.**

13 The Revised Statutes are amended by inserting after  
14 section 1979 (42 U.S.C. 1983) the following new section:

15 **“SEC. 1979A. STANDARDS FOR PROVING INTENTIONAL DIS-**  
16 **CRIMINATION IN CERTAIN CIRCUMSTANCES.**

17 “(a) STANDARDS.—In a case or proceeding brought  
18 under Federal law in which a complaining party meets its  
19 burden of proving a prima facie case of unlawful inten-  
20 tional discrimination and the respondent meets its burden  
21 of clearly and specifically articulating a legitimate, non-  
22 discriminatory explanation for the conduct at issue  
23 through the introduction of admissible evidence, unlawful  
24 intentional discrimination shall be established where the

1 complaining party persuades a trier of fact, by a prepon-  
2 derance of the evidence, that—

3 “(1) a discriminatory reason more likely moti-  
4 vated the respondent; or

5 “(2) the respondent’s proffered explanation is  
6 unworthy of credence.

7 “(b) RULE OF CONSTRUCTION.—This section shall  
8 apply only to those cases and proceedings in which the  
9 method of proof articulated in *McDonnell Douglas Corp.*  
10 *v. Green*, 411 U.S. 792 (1973), and *Texas Department*  
11 *of Community Affairs v. Burdine*, 450 U.S. 248 (1981),  
12 applies and shall not be construed to specify the exclusive  
13 means by which the complaining party may establish un-  
14 lawful intentional discrimination under Federal law.”.

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