



## Congressional Legislative Endorsement 118<sup>th</sup> Congress

**Bill No. and Title:** [S.1030](#) - Protecting Older Workers Against Discrimination Act

**Committee:** Senate - Health, Education, Labor, and Pensions

**Sponsor:** Sen. Casey, Robert P., Jr. [D-PA]

**Co-Sponsors:**

**Legislative history:** Introduced March 29, 2023

**Summary of  
legislation:**

This bill revises the evidentiary standard for age discrimination by establishing an unlawful employment practice when the complaining party demonstrates that age or participation in an investigation, proceeding, or litigation related to an age discrimination claim was a motivating factor for an adverse practice, even though other factors also motivated the practice (thereby allowing what are commonly known as mixed motive claims).

The bill (1) permits the complaining party to rely on any type or form of admissible evidence, which need only be sufficient for a reasonable trier of fact to find that an unlawful practice occurred; and (2) declares that the complaining party shall not be required to demonstrate that age or retaliation was the sole cause of the employment practice (thereby rejecting the Supreme Court's decision in *Gross v. FBL Financial Services, Inc.*, which requires the complainant to prove that age was the but-for cause for the employer's decision).

The bill applies this evidentiary standard to other employment discrimination and retaliation claims, including claims under the Civil Rights Act of 1964, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973.

In a claim in which age discrimination is shown, but where the employer demonstrates that it would have taken the same action absent the motivating factor of age, the bill authorizes courts to grant declaratory and injunctive relief, but prohibits the court from awarding damages or issuing an order requiring any admission, reinstatement, hiring, promotion, or payment. This limitation also applies to claims of discrimination based on disability.

**Link to text:** <https://www.congress.gov/bill/118th-congress/senate-bill/1030?q=%7B%22search%22%3A%5B%22S.1030%22%5D%7D&s=3&r=1>

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**Endorsed by 15 members of Dignity Alliance Massachusetts including:**

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| <ul style="list-style-type: none"><li>• Center for Living &amp; Working, Inc.</li><li>• Disability Law Center</li><li>• Disability Policy Consortium</li><li>• Easterseals Massachusetts</li><li>• Wynn Gerhard</li><li>• Arlene Germain, co-founder of both MA Advocates for Nursing Home Reform and Dignity Alliance MA</li></ul> | <ul style="list-style-type: none"><li>• Margaret Morganroth Gullette</li><li>• Anne Johansen BCIL volunteer</li><li>• Paul J. Lanzikos</li><li>• Former Senate President Pro Tem Richard T. Moore</li><li>• New England Chapter Aging Life Care</li><li>• Susan Rorke</li><li>• Brianna Zimmerman</li></ul> |
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