

Kate Brown
Governor



Oregon Advocacy Commissions Office
"Advocating Equality and Diversity"
421 SW Oak St., Portland, OR 97204
O 503.302.9725
Email: oaco.mail@oregon.gov

Testimony in Support of HB 4008A
February 23, 2018, HR 343 at 8 am
Senate Committee on Judiciary

Chair Senator Prozanski, Vice Senator Thatcher, and Senators, Bentz, Dembrow, Gelser, Linthicum, and Wagner:

The Oregon Commission for Women (OCFW), in its role of advocate for the women and girls of Oregon, and the Oregon Commission on Black Affairs (OCBA) strongly support HB 4008: Fair Calculations in Civil Damages as a bill of intersectional importance to our constituent communities.

Under our current legal system, the settlement of civil damage cases can award less money for personal injury cases based on the fact alone that a victim is a minority. This situation is compounded in intersectional decisions involving minority women or children. Currently the courts and other decision makers in our civil legal process should not be allowed to say one life is worth more than another. This is one of the most damaging and offensive consequences of America's inequality problem, and it should not be legal in this country. All lives should be valued equally, and it is discriminatory that courts in the year 2018 can suggest otherwise.

Race-based calculation in civil damages is a national problem, not just a problem in Oregon. Civil court decisions, settlements, forensic economists, and lawyers across the country often rely on statistics that correlate earnings with factors such as race to generate what they consider as a reasonable value for an injured individual's lost future earnings. According to a 2009 survey by the National Association of Forensic Economics, 44 percent of those responding reported they considered race and 92 percent considered gender when calculating potential lost earnings for injured children.

HB 4008A prohibits a court, arbitrator, mediator, or other factfinder from using race-based data on future earnings to calculate the projected future earning potential of a victim. This concept acknowledges multiple decision makers in our civil legal process, as 95% of personal injury cases are settled out of court. Instead of using data about specific racial groups, these entities will need to use tables that provide average data across race.

The Oregon Commission for Women and the Oregon Commission on Black Affairs believe that HB 4008A will serve as a needed first step in addressing the way legacy wage disparities create systemic inequalities in lost future earnings potential for personal injury decisions. We support Oregon becoming the first state to prohibit the use of racialized data in personal damages decisions.

Dr. Barbara Ramirez Spencer, OCFW Chair

James Morris, OCBA Chair

OR Commission on Asian and Pacific Islander Affairs

Chanpone Sinlapasai-Okamura, Chair
David Yuen Tam, Vice Chair
Legislative Liaisons:
Senator Michael Dembrow
Representative Carla Piluso

OR Commission on Black Affairs

James Morris, Chair
Musse Olol, Vice Chair
Legislative Liaisons:
Senator Rod Monroe
Representative Janelle Bynum

OR Commission on Hispanic Affairs

Alberto Moreno, Chair
Irma Linda Castillo, Vice Chair
Legislative Liaisons:
Senator Sara Gelser
Representative Teresa Alonso León

OR Commission for Women

Dr. Barbara Spencer, Chair
Kim Olson, Vice Chair
Legislative Liaisons:
Senator Laurie Monnes Anderson
Representative Sheri Malstrom

Staff

Lucy Baker, Administrator
Nancy Kramer, Executive Assistant