

## S 880

### Protecting Older Workers Against Discrimination Act

**Congress:** 117 (2021–2023, Ended)

**Chamber:** Senate

**Policy Area:** Labor and Employment

**Introduced:** Mar 22, 2021

**Current Status:** Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

**Latest Action:** Read twice and referred to the Committee on Health, Education, Labor, and Pensions. (Mar 22, 2021)

**Official Text:** <https://www.congress.gov/bill/117th-congress/senate-bill/880>

### Sponsor

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

**Party:** Democratic • **State:** PA • **Chamber:** Senate

### Cosponsors (5 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Collins, Susan M. [R-ME]	R · ME		Mar 22, 2021
Sen. Grassley, Chuck [R-IA]	R · IA		Mar 22, 2021
Sen. Leahy, Patrick J. [D-VT]	D · VT		Mar 22, 2021
Sen. Murkowski, Lisa [R-AK]	R · AK		Nov 16, 2021
Sen. Hassan, Margaret Wood [D-NH]	D · NH		Jan 12, 2022

### Committee Activity

Committee	Chamber	Activity	Date
Health, Education, Labor, and Pensions Committee	Senate	Referred To	Mar 22, 2021

### Subjects & Policy Tags

#### Policy Area:

Labor and Employment

### Related Bills

Bill	Relationship	Last Action
117 HR 2062	Identical bill	<b>Jun 24, 2021:</b> Received in the Senate and Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

## Protecting Older Workers Against Discrimination Act

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.

## Actions Timeline

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- **Mar 22, 2021:** Introduced in Senate
- **Mar 22, 2021:** Read twice and referred to the Committee on Health, Education, Labor, and Pensions.