ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5509

STATE OF NEW JERSEY

DATED: MAY 12, 2021

The Assembly Judiciary Committee reports favorably Assembly Bill No. 5509.

This bill provides that in a civil action arising from personal injury or wrongful death, any estimations, measures, or calculations of past, present, or future damages for lost earnings or impaired earning capacity shall not be reduced because of race, ethnicity, or gender. The bill further provides that in any such civil action, any reduction of damages based upon statistical tables alone shall be deemed to be against the public policy of this State.

In general, the calculation of damage awards in personal injury and wrongful death actions will take into account the victim's projected lost earning potential. However, the courts may take into account expert testimony using data from the federal Bureau of Labor Statistics, which breaks down earnings by race, ethnicity, and gender, among other categories. In the view of the sponsor, the use of data and statistical tables that take these particular categories into account reflects gender pay disparities and workforce discrimination; it can under-value women and minorities; and it perpetuates long-standing discriminatory practices.

This bill is based on a California enactment, Chapter 136 of 2019.