

Standard of Review Applied by Courts When Reviewing Legitimacy of Governmental Acts

Strict scrutiny (maximum scrutiny)

Laws affecting fundamental rights are reviewed under this standard. When the Court applies strict scrutiny, the State has the burden of proof to show that a law is the least onerous path to a compelling state interest. It is also referred to as the “least restrictive means of advancing a compelling state interest”.

Middle-tier (intermediate scrutiny)

This standard is applied when a law minimally burdens a fundamental right (does not impermissibly burden it).

The Court balances the rights infringed and the governmental interest to be served by the infringement and asks:

1. Has the state shown that the infringement reasonable?
2. Whether the government interest is more important than the infringement of the right.

Rational basis (low standard, easy for government to meet)

This standard is applied where a fundamental right is not implicated. This standard is met where the law is rationally related to a legitimate governmental interest.

The Court asks: Is there any possible purpose for the legislation?