

The levels of judicial scrutiny were first introduced in Footnote 4 of the *US v Carolene Products Co. Case*. (1938)

HOW DO COURTS USE THESE TESTS?

This is a generalization of how courts employ tests. As with any case, there are variations and application or interpretation is subject to change. Remember, these tests are run to ensure that a law is offering equal protection of the law to all citizens via substantive due process. If the government's actions violate equal protection, they have to prove why this violation is important enough to trump the individuals' right to life, liberty, and property.

What is required for a law to survive (not be struck down) the various levels of Equal Protection Review?			
	Rational Basis	Intermediate Scrutiny	Strict Scrutiny
State Interest	Only needs to be legitimate, meaning something that the state has jurisdiction over (can be read as preferred)	Must be genuine and important	State interest must be compelling (vaguely defined, but generally accepted to be necessary or crucial.)
Law's relation to that interest	Must be rationally related... not arbitrarily arrived at.	Must be substantially related	Must necessary to achieve the purpose... meaning narrowly tailored (not overly broad) and least restrictive (meaning there are no other alternatives)
Applies to what kinds of situations?	<ol style="list-style-type: none"> 1. Non-suspect classifications 2. Non-fundamental rights 3. General welfare relating to social welfare and economics 4. Anything else not in other two categories. 	<ol style="list-style-type: none"> 1. Quasi-suspect classifications 2. Laws burdening "important but not constitutional" rights." 3. Gender classifications must be "exceedingly persuasive." 	<ol style="list-style-type: none"> 1. Suspect classifications (race and national origin) 2. Laws burdening the fundamental rights of some class (e.g. travel or voting rights) regardless of class effected.
Examples:	Looking at issues that have no constitutional basis.	Sexual Orientation Free Speech Sex-based classifications Illegitimacy	Racial Issues National Origin Issues
Famous & First cases	<i>Lochner v New York</i> (1905) <i>Nebbia v New York</i> (1934)	<i>Craig v Boren</i> (1976) <i>US v Virginia</i> (1996)	<i>Korematsu v US</i> (1944) <i>Adarand Contractors v Pena</i> (1995)

These tests are employed when an action of a state (Substantive Due Process) in some way impedes or abrogates an individual's core liberties. Parties can ask the court to examine the impact of laws to determine if the law should stand, or be removed in favor of these core interests. Depending on the type of policy discussed will determine the kind of test run, as well as what the government has to prove in order to keep the law from being struck down.