

CROWN Act Support Grows

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In recent years there has been increased efforts to prohibit discrimination based on hair. On March 18, 2022, the CROWN Act was passed by the U.S. House of Representatives and is now on its way to the U.S. Senate. The “Creating a Respectful and Open World for Natural Hair” (“CROWN”) Act would expand existing anti-discrimination laws to include discrimination on the basis of hair texture or hair style. Proponents of the legislation assert that hair has served as a basis for educational and employment discrimination throughout U.S. history, much of this discrimination stemming from bias against hair styles associated with people of African descent such as locs, cornrows, twists, braids, Bantu knots, and Afros. The CROWN Act would ban hair-based discrimination for all federally assisted programs, housing programs, places of public accommodation, and employment. Violations will be addressed in the same manner as all other violations of federal discrimination laws.

While the Act may struggle to pass the Senate, even with a narrow Democratic majority, President Biden has expressed his support for the bill. In a statement last March, the President acknowledged the nation’s history of hair-based discrimination and stated his intention to work with Congress to enact the legislation. Opponents of the bill have questioned the need for the legislation noting that existing anti-discrimination laws, such as Title VII, already prohibit discrimination on the basis of race and that hair discrimination is just an extension of race discrimination.

Even if the CROWN Act does not become federal law, employers should be aware that hair texture or style discrimination may already be illegal in their state or locality. In 2019, California became the first state to pass the CROWN Act with 13 other states passing the same or similar legislation in subsequent years. Additionally, over 30 U.S. cities have passed the CROWN Act at the local level, including four cities in Ohio (Akron, Columbus, Cincinnati, and Newburgh Heights). Thirty states (including Ohio and Michigan) have introduced similar legislation.

Employers should review their policies and procedures to ensure compliance with the CROWN Act. Even if the CROWN Act is not current law, claims of hair-based discrimination may still be the basis of a discrimination claim. Both proponents and opponents of the CROWN Act have acknowledged that existing discrimination laws may support charges of discrimination based on one’s hair style or texture in certain circumstances. One of the most common problem areas for businesses is their employee handbooks and dress codes. Workplace grooming policies requiring employees to maintain certain hairstyles or hair lengths could violate these laws if enforced against styles commonly associated with a particular race or national origin. Employers should review and revise their employee handbooks with counsel to confirm that they are not maintaining any policies that could be in violation of the CROWN Act or other federal and state discrimination laws.

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