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CROWNing Moment: Implications for Employers as CROWN Act Expands

Labor & Employment Workforce Watch

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Texas has now joined 20 other states and various local jurisdictions that ban discrimination based on hairstyle through the Creating a Respectful and Open Workplace for Natural Hair Act (the "CROWN Act"), which will go into effect September 1, 2023. The CROWN Act prohibits discrimination based on traits historically associated with race, including hair textures and styles. *See* House Bill No. 567 (Tex.).

The Texas CROWN Act amends the Texas Labor Code as it relates to discrimination because of race or on the basis of race. Specifically, the definition of discrimination based on race has been amended to include discrimination because of or on the basis of an employee's hair texture or protective hairstyle commonly or historically associated with race. The law states that an employer commits an unlawful employment practice if the employer adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly associated with race. *See id.* With respect to the Texas Labor Code, "protective hairstyle" includes braids, locks, and twists. *See id.* The law does not provide for any additional limitations and exceptions. Further, the law does not address the conflict between its language and an employer's bona fide safety rules or measures.

Though Texas just signed the CROWN Act into law, similar legislation is already on the books in other jurisdictions, such as California, Colorado, Illinois, Louisiana, and New York. Employers have faced lawsuits related to hairstyle discrimination in federal lawsuits under Title VII of the Civil Rights Act of 1964 (Title VII) and are likely to confront similar litigation under the CROWN Act. For instance, in 2016, a race discrimination claim was brought by a Black woman who had a job offer rescinded because she refused to cut off her hair locs. *EEOC v. Catastrophe Mgmt. Solutions*, 852 F.3d 1018 (11th Cir. 2016). In another case, a Black worker brought claims under Title VII because she was terminated for refusing to wear a straight hair wig. *Equal Employment Opportunity Commission v. American Screening LLC*, Docket No. 5:22-cv-01673 (W.D. La. Jun 16, 2022), Court Docket. With respect to litigation related to the CROWN Act, a California man filed suit against a hiring employer because he contended the employer refused to hire him unless he trimmed his hair.

In Texas, now that the CROWN Act will become law, employers should review and update existing policies, practices, and materials in their employee handbooks and training material to ensure they are in compliance with the CROWN Act ahead of the September 1, 2023 effective date. Texas employers should pay particular attention

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to any policies related to appropriate grooming/dress codes, specifically, if the policies touch on hairstyles in the workplace. Though employers may require professional appearance in the workplace, employers should carefully scrutinize any bans or restrictions on particular hairstyles, especially if such hairstyles fall into the “protective hairstyles” categories. Texas employers should also review onboarding and interview documents to provide education and training on the new law for supervisory employees.

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