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California Enacts Law Prohibiting Hairstyle Discrimination … with New York and New Jersey Close Behind

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As we have reported before, California is set to become the first state to prohibit employers from discriminating based upon hairstyle. Last week, Governor Gavin Newsom signed into law the "CROWN Act" (Create a Respectful and Open Workplace for Natural Hair).

The CROWN Act amends the state's Education Code and Government Code to define "race or ethnicity" as "inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles." The new law expressly defines "protective hairstyles" as including but not limited to "braids, locks, and twists."

Introduced by Sen. Holly Mitchell (D-Los Angeles), the CROWN Act "protects the right of Black Californians to choose to wear their hair in its natural form, without pressure to conform to Eurocentric norms," Mitchell said. Governor Newsom called the law "long overdue," and the bill passed both the Senate and the Assembly unanimously. The new law takes effect on January 1, 2020.

Meanwhile, on the East Coast, both New York and New Jersey also are advancing laws that would protect against hairstyle-based discrimination.

In New York, SB 6209 would amend the definition of "race" under the New York State Human Rights Law (NYSHRL) to include "traits historically associated with race, including but not limited to, hair texture and protective hairstyles," thus making it unlawful under the NYSHRL to discriminate on the basis of such traits in employment, as well as housing and in public accommodations. The bill also would extend similar protections to students covered under the state's Education Law.

Similarly in New Jersey, SB 3945 would expand the definition of “race” under the New Jersey Law Against Discrimination (which also prohibits discrimination in employment, housing, and public accommodations) to include “traits historically associated with race, including, but not limited to, hair texture, hair type, and protective hairstyles.”

Like the California law, the New York and New Jersey bills define “protective hairstyles” to include hairstyles such as braids, locks, and twists.

The New York bill is currently before Governor Andrew Cuomo, who is expected to sign. The New Jersey bill is still being considered by the state Senate and Assembly Labor Committees. Both bills, if signed, would take effect immediately.

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