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How Employers Can Prep for CROWN Act Legislation

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Since 2019, community leaders, organizations, and lawmakers have influenced a movement to introduce legislation—at all levels of government—that prohibits workplace discrimination based upon hairstyle and hair texture.

This movement stems from US history of laws and societal norms that consider Black or other ethnic hairstyles to be unprofessional.

In the workplace, these standards of "professionalism" surrounding hair texture and hairstyle can erect a deceptive barrier to employment opportunities for applicants who come from a variety of backgrounds.

Frequently called the Creating a Respectful and Open World for Natural Hair (CROWN) Act, variations on this legislation have targeted discrimination based upon a person's hair texture or hairstyle—if that hair texture or hairstyle is commonly associated with a particular race or national origin, including hairstyles historically associated with Black people such as locs, cornrows, braids, twists, Bantu knots, and Afros.

Legislative Activity

CROWN Act legislation has already been enacted in California, Colorado, Connecticut, Delaware, Illinois, Louisiana, Maine, Massachusetts, Maryland, Nebraska, Nevada, New Jersey, New Mexico, New York, Oregon, Tennessee, Virginia, Washington, and the US Virgin Islands. Effective Jan. 1, 2023, **Illinois**' CROWN Act is the most recent.

Over 40 local governments have also passed versions of CROWN Act legislation since 2019. In Washington, D.C., existing human rights laws prohibit hair-based workplace discrimination.

Federal CROWN Act legislation has been unsuccessful to date. In March 2022, the CROWN Act of 2022 passed the House with bipartisan support.

President Joe Biden announced his **support** for the bill, which sought to prohibit employers, employment agencies, and labor organizations from discriminating against current or prospective employees based upon hair texture or hairstyle—through expansion of Titles VI and Title VII of the Civil Rights Act of 1964 and other federal civil rights laws. However, in December 2022, the companion bill did not succeed in the Senate.

Future of Legislation

Renewed efforts to pass federal CROWN Act legislation are uncertain. The CROWN Act for this congressional cycle has yet to be introduced in the House or Senate.

Meanwhile, efforts to pass similar legislation at the state level are continuing. More states are moving to enact their own versions of the CROWN Act since 2019, including Michigan, Minnesota, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Wisconsin.

In January 2023, the Minnesota legislature **passed** CROWN Act legislation—it is now headed to the desk of Gov. Tim Walz, who is expected to sign it.

Litigation Trends

Although the push for natural hair discrimination legislation is trending across the country, legal battles over natural hair have been ongoing for decades.

In 1975, Beverly Jenkins filed a racial discrimination **lawsuit** against her employer, Blue Cross Mutual Hospital Insurance, after being told that she "could never represent Blue Cross" with her Afro. The Seventh Circuit held that workplace discrimination on the basis of a Black employee's "Afro hair style" constitutes unlawful race discrimination under Title VII of the Civil Rights Act of 1964.

Since the *Jenkins* decision, federal courts have distinguished between hair texture and hairstyle discrimination. In ***Equal Emp. Opportunity Comm'n v. Catastrophe Mgmt. Sols***, the Eleventh Circuit upheld an employer's policy of banning locs in the workplace because a hairstyle, unlike hair texture, is not an immutable characteristic of Black persons. It therefore concluded that the policy was not racially discriminatory. The US Supreme Court subsequently declined to review the ruling.

Nonetheless, applicants and employees alleging discrimination based on hair texture or hairstyle have continued to pursue litigation. In a now-dismissed 2021 California state court lawsuit, a Black man filed suit alleging that his former employer violated California's CROWN Act by denying him a job because he refused to cut his locs.

Also of interest is Louisiana's pending ***Equal Emp. Opportunity Comm'n v. American Screening LLC***, in which the EEOC alleges that an employer violated Title VII when it terminated a Black worker because she refused to wear a straight hair wig. A jury trial is set to start in September 2023.

Looking Ahead

Employers with employees in locales where CROWN Act laws exist may want to carefully review their handbooks, training materials, dress codes, and personal grooming policies to ensure they are not violating governing law.

And while these laws all generally prohibit workplace discrimination based on hair texture and protective hairstyles, they are not identical, so employers should be familiar with laws' requirements and exceptions.

Even in jurisdictions where no such laws have been enacted, employers may want to review these same policies and materials, and should ensure that current and prospective employees are not treated differently because of hairstyles that are associated with a particular race or national origin.

Employers may also want to provide managers and supervisory personnel with updated anti-discrimination training highlighting the effects of CROWN Act laws.

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