Updates
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CROWN Act Passed by the House, Banning Race-Based Hair Discrimination

The U.S. House of Representatives passed the Creating a Respectful and Open World for Natural Hair (CROWN) Act in a 235-189 vote. According to the bill, passed on March 18, 2022, the long-standing racial and national origin biases and stereotypes associated with hair texture and style result in racial and national origin discrimination in the workplace. Under the proposed legislation, employers would be prohibited from discriminating against individuals based on hair textures or hairstyles that are commonly associated with a particular race or national origin.

Proponents of the bill assert that African Americans or persons of African descent systematically suffer discrimination in the workplace, and that it is necessary to explicitly prohibit the implementation of grooming requirements that disproportionately affect these individuals. The bill lists examples of natural or protective hairstyles commonly worn by individuals of African descent, including hairstyles in which hair is tightly coiled or tightly curled, locs, cornrows, twists, braids, Bantu knots, and Afros.

Some lawmakers have questioned whether the CROWN Act is necessary, arguing that existing laws banning race-based discrimination are already applicable. Namely, Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. However, proponents of the bill contend that, while discrimination against natural or protective hairstyles commonly worn by individuals of African descent violates existing federal law, federal courts have misinterpreted these laws by narrowly interpreting the meaning of race or national origin and permitting employment policies that result in race-based hair discrimination.

For example, the U.S. Court of Appeals for the Eleventh Circuit has previously held that dreadlocks, though culturally associated with race, are not immutable characteristics of Black persons, and therefore could not serve as the basis of a Title VII race discrimination claim. *E.E.O.C. v. Catastrophe Mgmt. Sols.*, 852 F.3d 1018, 1021 (11th Cir. 2016). The court ultimately held that the employer did not violate Title VII when it rescinded an applicant's job offer after the applicant refused to cut her dreadlocks pursuant to the employer's grooming policy. *Id.* Similarly, a court in South Carolina held that an employee could not establish a Title VII race discrimination claim, where she alleged that she was terminated for declining to chemically straighten or cut her natural African American hair. *Nelson v. Town of Mt. Pleasant Police Dep't*, No. 2:14-CV-4247-DCN-MGB, 2016 WL 11407774, at *4 (D.S.C. June 28, 2016), *report and recommendation adopted*, No. 2:14-CV-4247-DCN, 2016 WL 5110171 (D.S.C. Sept. 21, 2016).

Given Republican opposition to the bill, the fate of the CROWN Act as it proceeds to the Senate remains uncertain. However, even if the legislation is unsuccessful in the Senate, employers should be aware that many states have already enacted state laws prohibiting race-based hair discrimination. California was the first state to pass its version of the CROWN Act in 2019 and several other states and municipalities have enacted or are considering similar legislation. In light of this trend, employers should review their grooming and appearance policies as they relate to hairstyles.

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