PULLMAN &COMLEY

The CROWN Act: Connecticut Aims to Eliminate Race-Based Hair Discrimination in the Workplace

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Connecticut has officially joined a handful of states in the country explicitly prohibiting raced-based hair discrimination. On March 4th, Governor Lamont signed into law the CROWN Act – the name is an acronym for "Creating A Respectful and Open World for Natural Hair." The new law makes it an illegal practice to discriminate based on a person's hair texture or protective hairstyle in employment, public accommodations, housing, credit practices, union membership, and state agency practices. Under Connecticut's nondiscrimination statutes, the term "race" will now include in its definition "ethnic traits historically associated with race, including, but not limited to, hair texture and protective hairstyles." Protective hairstyles include (but are not limited to) wigs, headwraps, individual braids, cornrows, locs, twists, Bantu knots, afros, and afro puffs.

The CROWN Act comes on the heels of a widely-reported nationwide study finding that black women are 1.5 times more likely than other workers to be sent home from the workplace because of their hair. The study also found that 80% of black women felt they needed to change their hairstyles to adapt to conservative workplace standards. Indeed, hair discrimination is often the result of perceptions that textured, natural hair is unprofessional in a workplace environment. For example, black TV anchors have received negative comments from networks for wearing natural hairstyles on the air. Even in school settings, black children have faced serious consequences for wearing their natural hair. In 2018, a referee's decision requiring a high school wrestler to cut his dreadlocks in order to participate in a wrestling match prompted nationwide outrage. In Louisiana, a young girl was sent home from school for wearing braids. Connecticut's CROWN Act aims to eliminate these consequences of hair biases which have traditionally and unfairly impacted black women and men.

Under federal law, Title VII prohibits employers from discriminating on the basis of a person's individual race, color, religion, sex, or national origin. The Equal Employment Opportunity Commission (EEOC), the federal agency tasked with enforcing federal workplace anti-discrimination laws, addressed employer hairstyle rules in its 2006 Compliance Manual. Although the Manual is not law, it is meant to serve as guidance for employers. The guidance provides that: "Employers can impose neutral hairstyle rules – e.g., that hair be

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neat, clean, and well-groomed – as long as the rules respect racial differences in hair textures and are applied evenhandedly." The Manual further instructs that Title VII prohibits employers from preventing black women from wearing their hair in a natural, unpermed afro style that complies with the neutral hairstyle rule. Connecticut's CROWN Act, however, would require these corporate grooming policies to go even further by allowing not just afros, but also individual braids, cornrows, locs, twists, Bantu knots, and afro puffs. Moreover, Connecticut's protected hairstyles are not limited to those explicitly listed in the Act, and include any ethnic hairstyle historically associated with race.

Connecticut's new law stands in stark contrast to decisions of the courts, which have been hesitant to classify hair discrimination as race discrimination even in light of the EEOC guidance. As recently as 2017, the Eleventh Circuit held that a company could deny employment to a black job applicant who refused to cut his dreadlocks as a condition of employment. *Equal Emp. Opportunity Comm'n v. Catastrophe Mgmt. Sols.*, 852 F.3d 1018 (11th Cir. 2016). The court stated that Title VII prohibits discrimination on the basis of immutable characteristics, while a hairstyle such as dreadlocks, even when closely associated with a particular ethnic group, is a mutable characteristic. Another court held that it is not discriminatory for an airline to prohibit employees in certain employment categories from wearing cornrows. *Rogers v. Am. Airlines, Inc.*, 527 F. Supp. 229 (S.D.N.Y. 1981). Again, the court based its decision on the idea that a hairstyle is an easily changed characteristic. Both of these employer policies prohibiting dreadlocks and cornrows would be illegal in Connecticut today.

The Commission on Human Rights and Opportunities (CHRO), Connecticut's nondiscrimination enforcement agency, is now empowered to investigate employee complaints of discriminatory practices based on an individual's hair as race discrimination under the CROWN Act. Connecticut is the eighth state to enact the bill and will join Virginia, Washington, Maryland, New York, New Jersey, Colorado, and California as states which have enacted their own CROWN Acts.

In light of the CROWN Act, employers doing business in Connecticut should review their dress codes and/or grooming policies which dictate how employees may wear their hair in the workplace. Any policy that prohibits employees from wearing their hair in a certain style must be applied to employees equally, and must not disproportionately impact employees of one race over another. Employers should also consider reevaluating whether a prohibition on a specific hairstyle is necessary for the workplace. For more information on this subject, or assistance with compliance review, contact any of the attorneys in our Labor, Employment, and Employee Benefits group

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