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### Race-Related Hair Discrimination Is Now Prohibited in Texas



Texas Governor Greg Abbott recently signed the Creating a Respectful and Open World for Natural Hair Act (Texas CROWN Act), which will go into effect on September 1, 2023. The Texas CROWN Act prohibits employers, labor unions, and employment agencies from discriminating against Texas employees because of hairstyles associated with race. The new law covers race-based hair discrimination in employment, schools, and housing.

The CROWN Act follows a national trend, with similar laws already enacted in [22 states and 45 local governments](#). The Texas CROWN Act amends the definition of race discrimination under the Texas Labor Code, whereby it now includes "discrimination because of or on the bases of an employee's hair texture or protective hairstyle commonly or historically associated with race." The Texas CROWN Act states that it is an "unlawful employment practice if the employer, labor union, or employment agency adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race." The law defines "protective hairstyles" as "braids, locks, and twists."

### **Hair Discrimination: National Legal Landscape**

Title VII of the Civil Rights Act of 1964 (Title VII) prohibits employers from discriminating against employees and job applicants based on race, color, religion, sex, and national origin. In 2016, the U.S. Court of Appeals for the Eleventh Circuit held in *EEOC vs. Catastrophe Management Solutions* that Title VII does not afford protection based on hairstyle. There, the plaintiff argued that she was discriminated against when her employer rescinded her job offer because she refused to cut her dreadlocks, a hairstyle commonly associated with the culture and tradition of the Black community. But the employer successfully argued that a grooming policy

based on a "mutable" characteristic like hairstyle was not racially discriminatory. The U.S. Supreme Court declined to review the Eleventh Circuit's decision.

In response, state and local governments have passed laws prohibiting race-based hair discrimination under state anti-discrimination statutes and local ordinances. Twenty-two states have passed their own version of the CROWN Act, including Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, Oregon, Tennessee, Texas, Virginia, and Washington. California was the first state to pass the CROWN Act in July 2019. In addition, 22 other states have introduced CROWN Act legislation, and Arizona Governor Katie Hobbs has issued an executive order banning race-based hair discrimination in all state agencies. Only six states have failed to enact or file CROWN Act legislation.

In Congress, the U.S. House of Representatives passed a federal CROWN Act bill on March 18, 2022, but it failed to win the approval of the Senate.

## **Next Steps for Employers**

Texas employers should take appropriate steps to review and update their employee handbooks and hiring, grooming, and dress code policies. Unless a prohibition on a particular hairstyle is related to a bona fide occupational qualification or an essential function of the job, employer policies should generally reflect a neutral approach to hairstyles and hair textures in the workplace.

Although the Texas CROWN Act does not take effect until September, similar municipal laws affecting private employers are already in effect in the city of Austin. Austin's version of the CROWN Act, passed June 9, 2022, prohibits discriminatory employment practices based on hair texture or hairstyle commonly associated with race, national origin, ethnicity, or culture and includes but is not limited to afros, Bantu knots, braids, cornrows, curls, locs, twists, or hair that is tightly coiled or tightly curled.

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