

Publications

Illinois, Louisiana, Maine and Tennessee Now Prohibit Natural Hairstyle Discrimination

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Since 2019, 12 states (California, Colorado, Connecticut, Delaware, Maryland, Nebraska, New Jersey, New Mexico, New York, Oregon, Virginia and Washington – along with numerous cities) have enacted the CROWN Act (Creating a Respectful and Open Workplace for Natural Hair) to prohibit discrimination on the basis of natural hairstyle. Illinois, Louisiana, Maine and Tennessee already prohibit discrimination on the basis of numerous protected characteristics, including race, ethnicity and national origin. The states' civil rights law make it unlawful to discriminate against a job applicant or employee with respect to the terms and conditions of employment based on a protected characteristic. Illinois, Louisiana, Maine and Tennessee have now joined other jurisdictions in enacting the CROWN Act.

The Illinois CROWN Act redefines "race" to expressly include "traits historically associated with race" including "hair texture and protective hairstyles." A "protective hairstyle" includes such hairstyles as braids, locks and twists. Maine's CROWN Act is similar, defining "race" to include hair texture, protective hairstyles and Afro hairstyles. In Illinois and Maine, it will be an unlawful discriminatory act or practice to refuse to hire an applicant or take adverse action against an employee with a protective hairstyle. Illinois' law takes effect on January 1, 2023. Maine's law takes effect on July 19, 2022.

Louisiana further extends its CROWN Act to also protect "cultural hairstyles." Louisiana's CROWN Act defines "race" and "national origin" to include natural, protective or cultural hairstyles, which includes afros, dreadlocks, twists, locs, braids, cornrow braids, Bantu knots, curls and hair styled to protect hair texture or for "cultural significance." It will be discriminatory to refuse to hire an applicant or take adverse action against an employee with a natural, protective, or cultural hairstyle. The law becomes effective on August 1, 2022.

Tennessee's CROWN Act prohibits employers from adopting policies that do not permit an employee to wear their hair in braids, locs, twists or another manner that is part of the cultural identification of the employee's ethnic group or that is a physical characteristic of the

employee's ethnic group. However, the law does not create a private right of action. Instead, employees may file a complaint with the Commissioner of Labor and Workforce Development who is authorized to "provide a warning" to the employer. The Tennessee CROWN Act does not apply to a public safety employee if it would prevent the employee from performing essential functions of the job; or to a policy that an employer must adopt to adhere to common industry safety standards, to maintain reasonable safety measures, or to comply with federal or state laws, rules, or regulations relative to health or safety. Tennessee's law took effect on July 1, 2022.

Employers in Illinois, Louisiana, Maine and Tennessee should review their policies and procedures to ensure they comply with changes to their state's civil rights laws. Contact your Vorys lawyer if you have questions about these or other equal employment opportunity laws.