

## CROWN Act Poised to Prohibit Hair-Based Discrimination and More in Michigan

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June 9, 2023

On June 8, 2023, the Michigan House of Representatives voted 100-7 to pass **Senate Bill 90** (SB 90), known as the Creating a Respectful and Open World for Natural Hair (CROWN) Act, which amends and expands the definition of race within Michigan's Elliott-Larsen Civil Rights Act (ELCRA) to ban discrimination based on hair and other traits associated with racial or ethnic identity. Governor Gretchen Whitmer is expected to sign SB 90 into law.

ELCRA has historically prohibited discriminatory practices, policies, and customs in employment, housing, education, and places of public accommodation based on religion, race, color, national origin, age, sex, height, weight, familial status, or marital status, and has recently been amended to **prohibit discrimination on the basis of sexual orientation and gender identity**. Another recent **amendment** expanded its protections to those who have had abortions. SB 90 expands the definition of race to include "traits historically associated with race, including, but not limited to, hair texture and protective hairstyles." This includes hairstyles such as braids, locks, and twists, but the legislation's language applies to all traits historically connected to racial identity.

Michigan follows 18 other states that have adopted a version of the CROWN Act. Federally, the House of Representatives has passed such a bill on two occasions, in 2020 and 2022, but each bill has stalled in the Senate.

Employers may want to consider the following in preparing for this new law:

- Review and update dress codes, grooming policies, and job descriptions to ensure that they are clearly connected to the company's business interests, inclusive, and consistently applied.
- Aim to implement non-discriminatory measures to address health and safety concerns (such as hairnets or hair ties) rather than bans.
- Train employees, especially supervisors, managers, and anyone who makes decisions related to hiring and implementation of the organization's dress and grooming policies, as well as their EEO policies.
- Implement diversity or unconscious bias training and engage in efforts to create and support a more inclusive workplace environment, including education surrounding traits historically associated with all racial and ethnic identities.

If you have any questions about this pending new legislation or how it they may impact your business, please contact the authors of this alert or your Miller Canfield attorney.