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Third Time's The Charm: Michigan Passes CROWN Act

Client Alert

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After unsuccessful attempts in 2020 and 2022, Michigan has now passed a bill amending the Elliott-Larsen Civil Rights Act (ELCRA) to prohibit discrimination based on hairstyle. As indicated in a previous alert, with democrats in control of the Michigan House and Senate and a democratic governor, it seemed likely that it was just a matter of time until the bill passed. With Governor Whitmer's signature on SB 90, Michigan now becomes the 20th state to prohibit hairstyle discrimination.

The bill, known as the Create a Respectful and Open World for Natural Hair (CROWN) Act, amends ELCRA to provide that the term "race" as a protected status, includes traits historically associated with race, including, but not limited to, hair texture and protective hairstyles. The amendment further defines "protective hairstyles" to include hairstyles such as braids, locks, and twists. Unlike CROWN Acts in some other states, Michigan's CROWN Act says nothing about grooming policies. Policies outright prohibiting employees from having these protective hairstyles would almost certainly be unlawful. But it remains to be seen whether a neutral grooming policy that does not specifically target protective hairstyles and that affects employees equally would be permissible. While the Act specifies hairstyles as a trait historically associated with race, it is not limited just to hairstyles, and employers may see other claims based on traits, such as dress or jewelry, historically associated with race.

Compliance with Michigan's CROWN Act should not be a significant burden for most employers. Employers should review and if necessary amend existing policies and practices to align with the bill. In addition to EEO policies, employers should also evaluate their grooming policies. If a grooming policy is necessary in a particular workplace, employers should be sure the policy does not discriminate against protective hairstyles,

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and is otherwise legally permissible. Additional training might also be needed to instruct employees and supervisors on avoiding hairstyle discrimination.

The CROWN Act is the second amendment expanding ELCRA this term, with the first being protections for sexual orientation and gender identity or expression. And in addition to the expansion of ELCRA, employers are also affected by the repeal of Michigan's Right to Work law. There have been a number of other bills introduced that seek to amend existing labor & employment laws. Butzel's Labor & Employment team will continue to monitor and report on the progress of all bills labor & employment related in Michigan. If you have any questions about the CROWN act, grooming policies or any other Labor & Employment issue, please contact your Butzel Labor & Employment Attorney.

Daniel Tukul

313.225.7047

tukul@butzel.com

Blake Padgett

248.258.1305

padgett@butzel.com