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Senate Bill 90 (as enacted)
Sponsor: Senator Sarah Anthony
Committee: Civil Rights, Judiciary, and Public Safety

PUBLIC ACT 45 of 2023

Date Completed: 3-26-24

RATIONALE

According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, race-based hair discrimination is not uncommon in work environments, schools, and medical facilities, and is often directed at Black people because of the way their hair is naturally textured. For example, studies indicate that a Black woman's textured hair is more likely to be perceived as unprofessional than individuals with straight hair.¹ The Elliot-Larsen Civil Rights Act (ELCRA) prohibits discrimination against protected classes (e.g., race, color, or national origin), and so it was suggested that traits historically associated with race, including hair texture and protective hairstyles, be protected as aspects of race.

CONTENT

The bill amended the ELCRA to prohibit discrimination based on traits historically associated with race, including hair texture and protective hairstyles.

Generally, the ELCRA prohibits discrimination in employment, public accommodations and public services, educational facilities, and housing and real estate based on religion, race, color, national origin, age, sex, height, weight, familial status, or marital status.

The bill defines "race" as inclusive of traits historically associated with race, including hair texture and protective hairstyles. "Protective hairstyles" include such hairstyles as braids, locks, and twists.

The bill took effect on June 15, 2023.

MCL 37.2103

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is a reintroduction of House Bill 4811 of the 2019-2020 Legislative Session.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, Black people experience discrimination for wearing culturally Black hairstyles. This race-based hair discrimination has negative economic, educational, and physical consequences. Economically, race-based hair discrimination affects the upward mobility of

¹ Dove, Crown Coalition, "CROWN 2023 Workplace Research Study", January 2023.

individuals and families because it may impair a person's ability to get hired or have employment security. For example, Black women with textured hair are considered less professional and less competent in the workplace than White women with curly hair or Black women with straight hair.² In addition, Black women with textured hair received fewer recommendations for interviews, especially in industries that were considered more rigid and conservative, such as consulting.³ Race-based hair discrimination also reduces employee morale, contributes to higher employee turnover, and increases the likelihood of lawsuits.

According to testimony, race-based hair discrimination can have negative consequences on a child's ability to learn in an educational setting. Fifty-three percent of Black mothers say their children experienced hair discrimination as young as five years old, while 81% of Black students in majority-White schools claim they sometimes wished their hair was straight.⁴ Trauma from experiences associated with race-based hair discrimination cause some Black girls to miss up to a week of school, potentially leading to poorer educational outcomes.⁵

Physically, race-based hair discrimination often incentivizes individuals with textured hair to use chemical straighteners. Studies have recently linked these products to a higher likelihood of developing uterine cancer, which may disproportionately affect Black women's physical health.⁶ Additionally, according to testimony before the Senate Committee of the Whole, race-based hair discrimination is an example of structural racism that has negative psychological effects on people of color; experiences of racial discrimination are linked with mental health issues such as depression and anxiety. Banning race-based hair discrimination may help mitigate economic, educational, and physical consequences for those who have textured hair.

Supporting Argument

Accepting natural hair is an essential part to affirming the humanity and dignity of all individuals in society. During the era of slavery in the United States, the disapproval of Black hair contributed to the devaluation of Black identity. Black hair, which is characterized by a unique texture, thickness, and versatility, was seen as inferior and was often subject to ridicule and oppression. Slavery imposed Eurocentric standards of beauty on African Americans, reinforcing the belief that the features associated with Whiteness were superior and desirable. Those same Eurocentric standards of beauty remain prevalent today. Protecting against race-based hair discrimination may improve society's respect for all hair textures.

Opposing Argument

According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, the bill may have unintended negative consequences on small businesses. Small businesses often operate at high risk to the owners, and an owner's control over every aspect of the business is important to the business's success. Some people believe that the bill may prohibit small business owners from upholding their own standards of appearance and professionalism in the workplace that they see as valuable for attracting customers.

Response: People of color do not have a choice as to how their hair grows, and their hairstyles reflect this. Some business owners' standards of professionalism may perpetrate race-based hair discrimination, which may also be bad for business.

² Koval, Christy & Rosette, Ashleigh, Michigan State University and Duke University, *"The Natural Hair Bias in Job Recruitment"*, 2020.

³ *Id.*

⁴ Dove, Crown Coalition, *"2021 CROWN Research Study for Girls Finds 53% of Black Mothers Say Their Child Experienced Hair Discrimination as Early as 5 Years Old"*, January 2022.

⁵ *Id.*

⁶ Chang, Che-Jung, PhD, et al, National Institute of Health, *"Use of Straighteners and Other Hair Products and Incident Uterine Cancer"*, August 2022.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Cory Savino, PhD

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.