WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2092

By Delegates Walker and Hornby

[Introduced January 11, 2023; Referred to the Committee on Government Organization then the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-11-22, relating to discrimination, prohibiting discrimination on the basis of hairstyle or texture.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11. HUMAN RIGHTS COMMISSION.

§5-11-22. Discrimination based on certain hair textures and hairstyles; definitions.

(a) For the purposes of this article, impermissible discrimination based on, but not limited to, discrimination based on hair textures and protective hairstyles historically associated with groups genetically inheriting textured hair to end the disparate impact of facially neutral policies upon said groups.

(b) The term "protective hairstyles" are those hairstyles necessitated by, or resulting from, the immutable characteristics of hair texture allowing the management of textured hair in its natural state without heat or chemical treatment, such as braids, locks, afros, curls, and twists. Locks being defined as a narrow ropelike strand of hair formed by matting, braiding, or twisting. Braids will be defined as woven strands of hair. Twists to be defined as strands of hair twisted around one another, or a single section of hair twisted. Afro is defined as a natural growth of curly or textured hair, in any length.

(c) Institutional policies, rules, or guidelines imposing restrictions impacting textured hair may balance the said restrictions against legitimate safety hazards if said restrictions would also apply to people without textured hair or utilizing protective hairstyles. Plaintiffs making a claim under this statute may challenge institutional restrictions sufficiently by either:

(1) Providing tools or techniques, if used and use mandated, would mitigate hazards;

(2) Demonstrating that the stated safety hazard cited poses no legitimate risk of harm; or

(3) Demonstrating that stated safety hazard is merely pretext for behavior actually motivated by discrimination.

NOTE: The purpose of this bill is to clarify that impermissible discrimination includes discrimination based on certain hair textures and styles.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.