HOUSE BILL 20-1048

A BILL FOR AN ACT

CONCERNING A PROHIBITION AGAINST DISCRIMINATION BASED ON A PERSON'S TRAITS THAT ARE HISTORICALLY ASSOCIATED WITH RACE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill specifies that, for purposes of anti-discrimination laws in the context of public education, employment practices, housing, public accommodations, and advertising, protections against discrimination on the basis of one's race includes traits historically associated with race, such as hair texture, hair type, and protective hairstyles.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. The short title of this act is the "Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020".

SECTION 2. Legislative declaration. (1) The general assembly finds and declares that:

(a) Throughout the history of the United States, society has used hair texture, hair type, and protective hairstyles, in conjunction with skin color, to classify people on the basis of race;

(b) Like skin color, a person's hair has served as a basis of race discrimination;

(c) Racial discrimination can and does occur because of longstanding racial biases and stereotypes associated with hair texture, hair type, and protective hairstyles;

(d) For example, routinely, people of African descent are deprived of educational and employment opportunities because they are adorned with natural or protective hairstyles in which hair is tightly coiled or tightly curled or worn in locs, cornrows, twists, braids, Bantu knots, or Afros;

(e) Racial discrimination is reflected in school and workplace policies and practices that bar natural or protective hairstyles commonly worn by people of African descent, as well as people of Jewish, Latinx, or Native American descent;

(f) The state should acknowledge that people who have hair texture or wear a hairstyle that is historically and contemporarily associated with persons of African, Jewish, Latinx, or Native American descent.
descent systematically suffer harmful discrimination in schools, workplaces, and other contexts based upon longstanding race stereotypes and biases;

(g) A clear and comprehensive law should address the systematic deprivation of educational, employment, and other opportunities on the basis of hair texture, hair type, and protective hairstyles that are commonly associated with race;

(h) Clear, consistent, and enforceable legal standards must be provided to redress the widespread incidences of race discrimination based upon hair texture, hair type, and protective hairstyles in schools, workplaces, housing, places of public accommodations, and other contexts;

(i) It is necessary to prevent educational, employment, and other decisions, practices, and policies generated by or reflecting negative biases and stereotypes related to race;

(j) The state must play a key role in enforcing state antidiscrimination laws, including the standards established under the "CROWN Act of 2020", in a way that secures equal educational, employment, and other opportunities for all people regardless of their race and protects against race discrimination based on hair texture, hair type, and protective hairstyles; and

(k) It is necessary to prohibit and provide remedies for the harms suffered as a result of race discrimination on the basis of hair texture, hair type, and protective hairstyles.

SECTION 3. In Colorado Revised Statutes, 22-2-117, amend (1)(b)(VIII) and (1)(b)(IX); and add (1)(b)(X) as follows:

22-2-117. Additional power - state board - waiver of
requirements - rules. (1) (b) The state board shall not waive any of the
requirements specified in any of the following statutory provisions:

   (VIII) Section 22-33-106.1 concerning suspension and expulsion
   of students in preschool through second grade; or

   (IX) Any provisions of section 22-1-128 relating to
   comprehensive human sexuality education content requirements; OR

   (X) ANY PROVISION OF SECTION 22-30.5-104 (3), 22-30.5-507 (3),
   22-32-109 (1)(ll), 22-32-110 (1)(k), 22-38-104 (1)(d), OR 22-63-206 (1)
   RELATING TO DISCRIMINATION BASED ON HAIR TEXTURE, HAIR TYPE, OR A
   PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY
   ASSOCIATED WITH RACE.

SECTION 4. In Colorado Revised Statutes, 22-30.5-104, amend
(3), (6)(c)(VII), and (6)(c)(VIII); and add (6)(c)(IX) as follows:

22-30.5-104. Charter school - requirements - authority - rules
- definitions. (3) (a) A charter school shall be subject to all federal and
state laws and constitutional provisions prohibiting discrimination on the
basis of disability, race, creed, color, sex, sexual orientation, national
origin, religion, ancestry, or need for special education services. A charter
school shall be subject to any court-ordered desegregation plan in effect
for the chartering school district. Enrollment in a charter school must be
open to any child who resides within the school district; except that no A
charter school shall be required to make alterations in the structure
of the facility used by the charter school or to make alterations to the
arrangement or function of rooms within the facility, except as may be
required by state or federal law. Enrollment decisions shall be made in a
nondiscriminatory manner specified by the charter school applicant in the
charter school application.
(b) For purposes of this subsection (3):

(I) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, afros, and headwraps.

(II) "Race" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(6) (c) A school district, on behalf of a charter school, may apply to the state board for a waiver of a state statute or state rule that is not an automatic waiver. Notwithstanding any provision of this subsection (6) to the contrary, the state board may not waive any statute or rule relating to:

(VII) Any provisions of section 22-1-130 relating to notification to parents of alleged criminal conduct by charter school employees; or

(VIII) Section 22-33-106.1 concerning suspension and expulsion of students in preschool through second grade; or

(IX) Subsection (3) of this section and sections 22-32-110 (1)(k) and 22-63-206 (1) relating to discrimination based on hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

SECTION 5. In Colorado Revised Statutes, 22-30.5-507, amend (3), (7)(b)(VII), and (7)(b)(VIII); and add (7)(b)(IX) as follows:

22-30.5-507. Institute charter school - requirements - authority - rules - definitions. (3) (a) An institute charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for
special education services. Enrollment in an institute charter school shall
MUST be open to any child who resides within the state; except that an
institute charter school shall not be IS NOT required to make alterations in
the structure of the facility used by the institute charter school or to make
alterations to the arrangement or function of rooms within the facility,
except as may be required by state or federal law. Enrollment decisions
shall be made in a nondiscriminatory manner specified by the applicant
in the institute charter school application.

(b) FOR PURPOSES OF THIS SUBSECTION (3):

(I) "PROTECTIVE HAIRSTYLE" INCLUDES SUCH HAIRSTYLES AS
BRAIDS, LOC, TWISTS, TIGHT COILS OR CURLS, CORNROWS, BANTU KNOTS,
AFROS, AND HEADWRAPS.

(II) "RACE" INCLUDES HAIR TEXTURE, HAIR TYPE, OR A
PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY
ASSOCIATED WITH RACE.

(7) (b) An institute charter school may apply to the state board,
through the institute, for a waiver of state statutes and state rules that are
not automatic waivers. The state board may waive state statutory
requirements or rules promulgated by the state board; except that the state
board may not waive any statute or rule relating to:

(VII) Any provisions of section 22-1-130 relating to notification
to parents of alleged criminal conduct by institute charter school
employees; OR

(VIII) Section 22-33-106.1 concerning suspension and expulsion
of students in preschool through second grade; OR

(IX) SUBSECTION (3) OF THIS SECTION AND SECTIONS 22-32-110
(1)(k) AND 22-63-206 (1) RELATING TO DISCRIMINATION BASED ON HAIR

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…TEXTURE, HAIR TYPE, OR A PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY ASSOCIATED WITH RACE.

SECTION 6. In Colorado Revised Statutes, 22-32-109, amend (1) introductory portion and (1)(ll) as follows:


(1) In addition to any other duty required to be performed by law, each board of education shall have and perform the following specific duties:

(II) (I) To adopt written policies specifying that:

(II) (A) The schools in the district are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services;

(II) (B) Enrollment in a school in the district shall be open to any child who resides within the state; except that a school shall not be required to make alterations in the structure of the facility used by the school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law; and

(II) (C) Enrollment decisions shall be made in a nondiscriminatory manner.

(II) FOR PURPOSES OF THIS SUBSECTION (1)(II):

(A) "PROTECTIVE HAIRSTYLE" INCLUDES SUCH HAIRSTYLES AS BRAIDS, LOCS, TWISTS, TIGHT COILS OR CURLS, CORNROWS, BANTU KNOTS, AFROS, AND HEADWRAPS.

(B) "RACE" INCLUDES HAIR TEXTURE, HAIR TYPE, OR A PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY ASSOCIATED WITH RACE.
SECTION 7. In Colorado Revised Statutes, 22-32-110, amend (1) introductory portion and (1)(k) as follows:

22-32-110. Board of education - specific powers - definitions.
(1) In addition to any other power granted to a board of education of a school district by law, each board of education of a school district shall have the following specific powers, to be exercised in its judgment:

(k) (I) To adopt written policies, rules, and regulations, not inconsistent with law, that may relate to the efficiency, in-service training, professional growth, safety, official conduct, and welfare of the employees, or any classification thereof, of the district. The practices of employment, promotion, and dismissal shall be unaffected by the employee's religion, creed, color, sex, sexual orientation, marital status, racial or ethnic background, national origin, ancestry, or participation in community affairs.

(II) FOR PURPOSES OF THIS SUBSECTION (1)(k):
(A) "PROTECTIVE HAIRSTYLE" INCLUDES SUCH HAIRSTYLES AS BRAIDS, LOCS, TWISTS, TIGHT COILS OR CURLS, CORNROWS, BANTU KNOTS, AFROS, AND HEADWRAPS.
(B) "RACIAL OR ETHNIC BACKGROUND" INCLUDES HAIR TEXTURE, HAIR TYPE, OR A PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY ASSOCIATED WITH RACE.

SECTION 8. In Colorado Revised Statutes, 22-38-104, amend (1)(d) as follows:

22-38-104. Pilot schools - requirements - authority - definitions. (1) The state board may provide for the establishment and operation of not more than one full-time residential pilot school and not more than three year-round nonresidential pilot schools pursuant to the
following provisions:

(d) (I) A pilot school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, or ancestry. Enrollment decisions shall be made in a nondiscriminatory manner specified by the pilot school applicant in the pilot school application.

(II) FOR PURPOSES OF THIS SUBSECTION (1)(d):

(A) "PROTECTIVE HAIRSTYLE" INCLUDES SUCH HAIRSTYLES AS BRAIDS, LOCS, TWISTS, TIGHT COILS OR CURLS, CORNROWS, BANTU KNOTS, AFROS, AND HEADWRAPS.

(B) "RACE" INCLUDES HAIR Texture, hair TYPE, or a PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY ASSOCIATED WITH RACE.

SECTION 9. In Colorado Revised Statutes, 22-63-206, amend (1) as follows:

22-63-206. Transfer - compensation - definitions. (1) (a) A teacher may be transferred upon the recommendation of the chief administrative officer of a school district from one school, position, or grade level to another within the school district, if such transfer does not result in the assignment of the teacher to a position of employment for which he or she is not qualified by virtue of academic preparation and certification and if, during the then current school year, the amount of salary of such teacher is not reduced except as otherwise provided in subsections (2) and (3) of this section. There shall be no discrimination shown toward any teacher in the assignment or transfer of that teacher to a school, position, or grade because of sex,
sexual orientation, marital status, race, creed, color, religion, national
origin, ancestry, or membership or nonmembership in any group or
organization.

(b) FOR PURPOSES OF THIS SUBSECTION (1):

(I) "PROTECTIVE HAIRSTYLE" INCLUDES SUCH HAIRSTYLES AS
braids, locs, twists, tight coils or curls, cornrows, BANTU KNOTS,
afros, and headwraps.

(II) "RACE" INCLUDES HAIR TEXTURE, HAIR TYPE, OR A
PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY
ASSOCIATED WITH RACE.

SECTION 10. In Colorado Revised Statutes, 24-34-301, amend
the introductory portion and (5.3); and add (5.1) and (5.8) as follows:

24-34-301. Definitions. As used in parts 3 to 8 of this article
ARTICLE 34, unless the context otherwise requires:

(5.1) "PLACE OF PUBLIC ACCOMMODATION" OR "PUBLIC
ACCOMMODATION" HAS THE SAME MEANING AS SET FORTH IN TITLE III OF
THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C.
SEC. 12181 (7), AND ITS RELATED AMENDMENTS AND IMPLEMENTING
REGULATIONS.

(5.3) "Place of public accommodation" or "public
accommodation" has the same meaning as set forth in Title III of the
(7), and its related amendments and implementing regulations
"PROTECTIVE HAIRSTYLE" INCLUDES SUCH HAIRSTYLES AS BRAIDS, LOCS,
TWISTS, TIGHT COILS OR CURLS, CORNROWS, BANTU KNOTS, AFROS, AND
HEADWRAPS.

(5.8) "RACE" INCLUDES HAIR TEXTURE, HAIR TYPE, OR A
PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY ASSOCIATED WITH RACE.

SECTION 11. In Colorado Revised Statutes, 24-50-112.5, amend (1)(b) as follows:

24-50-112.5. Selection system - definitions.

(1) (b) (I) Appointments and promotions to positions shall be based on a fair and open comparative analysis of candidates based on objective criteria. Selections shall be made without regard to race, color, creed, religion, national origin, ancestry, age, sexual orientation, marital status, or political affiliation and without regard to sex or disability except as otherwise provided by law.

(II) FOR PURPOSES OF THIS SUBSECTION (1)(b):

(A) "PROTECTIVE HAIRSTYLE" INCLUDES SUCH HAIRSTYLES AS BRAIDS, LOCBS, TWISTS, TIGHT COILS OR CURLS, CORNROWS, BANTU KNOTS, AFROS, AND HEADWRAPS.

(B) "RACE" INCLUDES HAIR TEXTURE, HAIR TYPE, OR A PROTECTIVE HAIRSTYLE THAT IS COMMONLY OR HISTORICALLY ASSOCIATED WITH RACE.

SECTION 12. In Colorado Revised Statutes, 22-32-109.1, amend (1)(b) as follows:

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions - repeal. (1) Definitions. As used in this section, unless the context otherwise requires:

(b) "Bullying" means any written or oral expression, or physical or electronic act or gesture, or a pattern thereof, that is intended
to coerce, intimidate, or cause any physical, mental, or emotional harm to
any student. Bullying is prohibited against any student for any reason,
including but not limited to any such behavior that is directed toward a
student on the basis of his or her THE STUDENT'S academic performance
or against whom federal and state laws prohibit discrimination upon any
of the bases described in section 22-32-109—(1)(II)(I) 22-32-109
(1)(II)(I)(A). This definition is not intended to infringe upon any right
guaranteed to any person by the first amendment to the United States
constitution or to prevent the expression of any religious, political, or
philosophical views.

SECTION 13. Act subject to petition - effective date -
applicability. (1) This act takes effect at 12:01 a.m. on the day following
the expiration of the ninety-day period after final adjournment of the
general assembly (August 5, 2020, if adjournment sine die is on May 6,
2020); except that, if a referendum petition is filed pursuant to section 1
(3) of article V of the state constitution against this act or an item, section,
or part of this act within such period, then the act, item, section, or part
will not take effect unless approved by the people at the general election
to be held in November 2020 and, in such case, will take effect on the
date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable
effective date of this act.