

CHAPTER 8

GOVERNMENT - STATE

HOUSE BILL 20-1048

BY REPRESENTATIVE(S) Herod and Buckner, Jackson, Arndt, Benavidez, Bird, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Exum, Froelich, Garnett, Gonzales-Gutierrez, Gray, Hooton, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Woodrow, Young, Becker;
also SENATOR(S) Fields, Bridges, Danielson, Donovan, Fenberg, Ginal, Gonzales, Hansen, Lee, Moreno, Pettersen, Rodriguez, Story, Todd, Williams A., Winter, Garcia.

AN ACT

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

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;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(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 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)(II), 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~~ is 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~~ is 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~~ IS NOT 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~~ is 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, 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.

(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 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)(II) as follows:

22-32-109. Board of education - specific duties - definitions. (1) In addition to any other duty required to be performed by law, each board of education ~~shall have and perform~~ HAS 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~~ MUST be open to any child who resides within the state; except that a school ~~shall not be~~ IS NOT 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~~ HAS 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~~ IS 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~~ THE transfer does not result in the assignment of the teacher to a position of employment for which ~~he or she~~ THE TEACHER is not qualified by virtue of academic preparation and certification and if, during the then current school year, the amount of salary of ~~such~~ THE 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 federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12181 (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, 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 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 ~~verbal~~ 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)(F)~~ 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.

Approved: March 6, 2020