



HAIR LOVE

THE CROWN ACT SEEKS TO REMEDY RACIALLY-BIASED NATURAL HAIR DISCRIMINATION

BY SARENA HOLDER

Hair Love, the poignant animated short film about a black father learning to style his daughter's natural hair, won the hearts of Oscar voters and took home the top prize at the 92nd Academy Awards on February 9, 2020. On hand to witness the historic moment was DeAndre Arnold — the Texas student who gained national attention after his high school refused to allow him to walk at graduation unless he cut his dreadlocks. Upon hearing the story, filmmakers Matthew A. Cherry and Karen Rupert Toliver, along with producers Gabrielle Union and Dwayne Wade, invited DeAndre to walk the red carpet at the Oscars as their guest. During his acceptance speech, Cherry said of the film, “*Hair Love* [was] born out of ... wanting to normalize black hair. We have a real chance here to help make hair discrimination illegal through The CROWN Act and get it passed as law in all 50 states for the people like our special guest DeAndre Arnold and many more.”

Both the *Hair Love* win and Cherry's speech shine a spotlight on a widespread but frequently ignored issue — discrimination based on natural and protective hairstyles associated with people of African descent, including cornrows, dreadlocks, twists, braids, Bantu knots, and Afros. Although existing state and federal law can address some forms of hair discrimination under the auspices of racial or national origin

discrimination, many state and federal courts have narrowly-construed those protections in a way that permits schools, workplaces, and other government-funded institutions to discriminate against people of African descent who wear natural hairstyles.

The CROWN Act Gains State and Federal Momentum

The CROWN Act (an acronym for “Create a Respectful and Open World for Natural Hair”), was first signed into law by California governor Gavin Newsom in July 2019 as SB 188. It prohibits discrimination based on hairstyle and hair texture by extending protection for both categories under the Fair Employment and Housing Act and the California Education Code. New York soon passed its own version in Assembly Bill 07797 — an amendment to the state's existing Human Rights Law and Dignity for All Students Act. The New York State amendment confirms earlier guidelines passed by the New York City council, which protect the rights of citizens and visitors to wear “natural hair, treated or untreated hairstyles...and/or the right to keep hair in an uncut or untrimmed state” without facing bias.

In December 2019, New Jersey became the third state to adopt the CROWN Act. The New Jersey language amends existing racial discrimination laws to include “traits historically associated with race, including, but not limited to, hair texture,

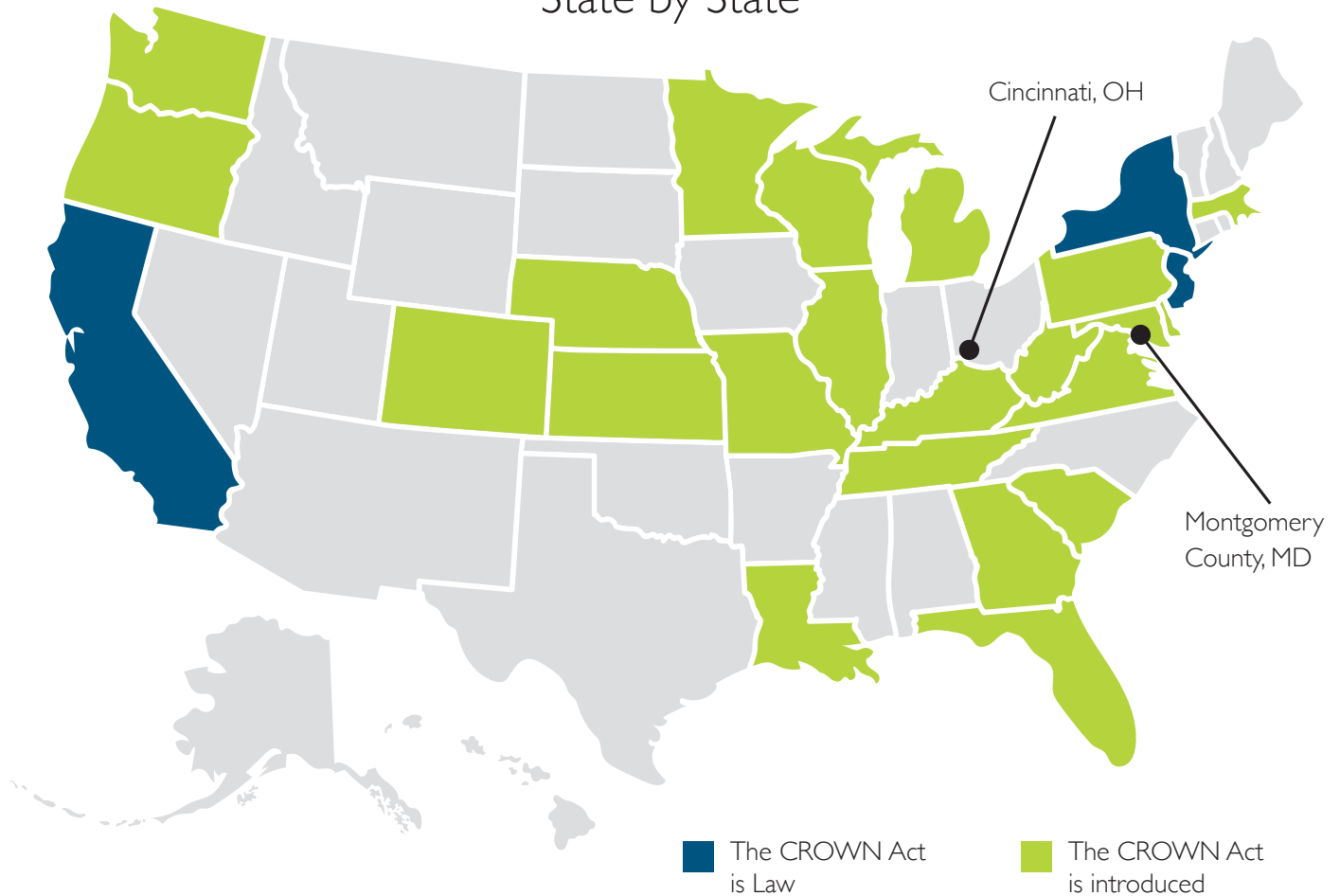
hair type, and protective hairstyles” in the definition of “race-based discrimination” and prohibits targeting individuals at work, school, or in public spaces based on these traits. New Jersey Governor Phil Murphy was particularly motivated to sign the CROWN Act into law after a December 2018 video showed New Jersey high school student Andrew Johnson being forced to publicly cut his dreadlocks minutes before a wrestling match in order to avoid forfeiting. The video, in which Johnson appears despondent during the haircut, sparked widespread outrage.

It was this video, along with other viral incidents, that were the catalyst for the December 2019 introduction of a bill in the United States House of Representatives to codify the CROWN Act on a federal level. Drafted and sponsored by Congresswoman Ayanna Pressley (D-MA), Senator Cory Booker (D-NJ), and Representatives Cedric Richmond (D-LA), Marcia Fudge (D-OH), and Barbara Lee (D-CA), the federal iteration of the CROWN Act seeks to include hair discrimination as a prohibited form of racial or national origin discrimination.

In addition to these state and federal efforts, Montgomery County, Maryland and Cincinnati, Ohio have passed their own versions of the CROWN Act within the past year, and similar laws are currently under consideration in 20 states nationwide. Both the Montgomery County and Cincinnati bills impose fines on perpetrators and

The CROWN Act

State by State



allow victims of discrimination to pursue monetary damages. Most importantly, however, each of these measures seek to dismantle a culture of discrimination experienced by black women and men who say they continue to face unwelcome comments, implicit or explicit pressures to conform, or even outright punitive measures for failing to straighten or cut their hair for work or school.

Real-World Impact

The CROWN Act was conceived by the CROWN Coalition — marketing powerhouse Dove/Unilever in conjunction with the National Urban League, Color of Change, and the Western Center on Law & Poverty. Its mission is to “advance efforts to end hair discrimination and to create a more equitable and inclusive beauty experience for black women and girls.” As an initial step in furtherance of this mission, Dove funded a 2019 study that showed that pervasive

discrimination against natural hair remains a significant barrier to the professional advancement of people of color, especially black women. In particular, the study found that 80% of black women feel pressured to change their hair from its natural state to fit in at the office, black women are 50% more likely to be sent home from the workplace because of their hair, and that black women’s hair is three times more likely to be perceived as unprofessional.

Clearly, DeAndre and Andrew’s stories aren’t unique. The NAACP Legal Defense and Educational Fund currently represents a 7-year-old boy and his family in an administrative complaint with the Florida Department of Education after he was denied entry to a private school because of his locs. The organization was also involved in the case of Chastity Jones, a woman who wore her hair in locs and said her job offer was rescinded because of her hairstyle. The U.S. Supreme Court declined to hear her

case last year.

In another viral moment, 11-year-old Faith Fennidy was sent home from her Louisiana school for wearing braided extensions, a protective hairstyle that allowed her more flexibility to study and swim without having to re-style her hair every night. The school maintained that her hairstyle violated its policy banning extensions, wigs, and hair pieces of any kind — a rule that had only gone into effect the prior summer.

Even actor Gabrielle Union has publically alleged that her departure from the television program *America’s Got Talent* was partially due to producer complaints that the hairstyles she wore on the show were “too black.”

These stories and the Dove study findings come as no surprise to Representative Ayanna Pressley, who has been vocal about her hair choices as a Congresswoman and her recent struggles with hair loss.

“For too long, black women and girls have been told that their hair is too curly, too unprofessional, too distracting. As a Congresswoman, I choose to wear my hair in twists because I want to intentionally create space for all of us to show up in the world as our authentic selves — whether it’s in the classroom, in the workplace or in the halls of Congress. [T]he CROWN Act... is a bold step towards ensuring that people can stand in their truth while removing the narrative that black people should show up as anything other than who they are.”

Ohio Representative Marcia Fudge views it as a basic issue of civil rights. On her support of the federal CROWN Act bill — “It is disheartening that, in 2019, hair discrimination creates additional barriers for people of color in education and places of employment. Traditional hairstyles worn by African Americans are often necessary to meet our unique needs, and are a representation of our culture and ethnicity. To require anyone to change their natural appearance to acquire educational resources

or a job is undeniably an infringement on their civil rights.”

Challenging the Status Quo

Although momentum is building, it is still currently legal in 47 states to discriminate against an individual due to the texture or styling of their hair. As recently as October 2019, a North Carolina judge ruled that while calling a Black woman’s natural hairstyle “unprofessional” qualifies as “offensive,” it did not “satisfy the demanding severe or pervasive standard required to state a claim for hostile work environment.” See *Tigner v. Charlotte-Mecklenburg Schools*, No. 3:18-cv-00680-RJC-DSC, 2019 WL 5420105, at *5 (W.D. N.C. October 23, 2019). Other detractors simply see additional legislation as redundant when it is already unlawful to harass or treat a person unfairly based on race, color, or ethnicity.

Supporters of the CROWN Act, however — such as producer and writer Shonda Rhimes — encourage those in a position of power in schools and workplaces to ask a different

question: are policies regarding acceptable hair styling necessary, or are they evidence of entrenched messaging regarding what a student or a “professional” should look like? “It’s important for administrators to look at the policies they’re putting in place and question why they’ve put them into place,” Rhimes says. “Why do you feel like somebody having braids is disruptive? Exactly what about a braid is disruptive to you? What does it signal? What are you trying to say? What does it suggest? You need to start thinking about your own bias.”



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