

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5378

By Delegates Hamilton, Hornbuckle, Lewis, Fluharty,
Griffith, Hansen, Garcia, Pushkin, Rowe, Young, and
Williams

[Introduced January 31, 2024; Referred to the
Committee on Government Organization then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §5-11-22, relating to discrimination, prohibiting discrimination on the basis of
 3 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.

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

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

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

- 16 (1) Providing tools or techniques, if used and use mandated, would mitigate hazards;
- 17 (2) Demonstrating that the stated safety hazard cited poses no legitimate risk of harm; or
- 18 (3) Demonstrating that stated safety hazard is merely pretext for behavior actually
 19 motivated by discrimination.

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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.