
Civil Rights & Judiciary Committee

HB 2602

Brief Description: Concerning hair discrimination.

Sponsors: Representatives Morgan, Thai, Pettigrew, Entenman, Lovick, Slatter, Santos, Ryu, Duerr, Appleton, Bergquist, Stonier, Ramos, Leavitt, Corry, Orwall, Dolan, Frame, Valdez, Gregerson, Ortiz-Self, Peterson, Davis, Riccelli, Callan, J. Johnson, Fey, Ramel, Hudgins, Kilduff, Robinson, Irwin, Doglio, Ormsby, Pollet and Macri.

Brief Summary of Bill

- Amends the Washington Law Against Discrimination so the term "race" includes traits historically associated or perceived to be associated with race.
- Prohibits discrimination on the basis of hairstyle or texture

Hearing Date: 1/28/20

Staff: Ingrid Lewis (786-7289).

Background:

The Washington Law Against Discrimination (WLAD) establishes that it is a civil right to be free from discrimination based on race; creed; color; national origin; families with children; sex; marital status; sexual orientation; age; the presence of any sensory, mental, or physical disability; or the use of a trained guide dog or service animal by a disabled person. This right applies to employment; places of public accommodation; commerce; and real estate, credit, and insurance transactions.

Race is currently not defined in statute.

The Washington State Human Rights Commission (HRC) is responsible, in part, for administering and enforcing the WLAD. The HRC receives and investigates complaints made by persons alleging unfair practices in violation of the law. If the HRC finds that there is reasonable cause to believe that discrimination has occurred, it must first try to eliminate the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

unfair practice via conference and conciliation. If this process fails, the matter will be referred to an administrative law judge, who may, after a hearing on the matter, issue an order providing relief to the complainant.

In addition, rather than go through the HRC complaint process, a complainant may instead file a civil suit in superior court against the alleged wrongdoer. Available relief includes an injunction against further violations, the recovery of actual damages, and reasonable attorneys' fees.

Hair Discrimination in the Federal Courts.

The primary federal law that prohibits employment discrimination is Title VII of the Civil Rights Act of 1964 (Title VII), which precludes employers from refusing to hire, discharging, or otherwise discriminating in compensation or other terms or conditions of employment because of an employee's protected characteristics. Title VII also prohibits employers from limiting, segregating, or classifying employees or applicants in a way that deprives an individual of employment opportunities or otherwise adversely affects an employee's status because of protected characteristics. Protected characteristics under Title VII are race, color, religion, sex, or national origin.

Federal courts have generally held that protections against racial discrimination cover only those aspects of racial identity that are immutable. As it relates to hair, Title VII protection only extends to immutable traits of race such as hair texture. Mutable characteristics, such as hairstyles, have not been considered protected characteristics.

Afros are considered an "immutable racial characteristic" by the federal courts and are protected under Title VII on the basis of race.

Summary of Bill:

Discrimination on the basis of hair style or texture under the Washington Law Against Discrimination (WLAD) is discrimination based on race and is prohibited. The WLAD is amended so the term "race" includes traits historically associated or perceived to be associated with race. This would include, but would not be limited to, hair texture and protective hairstyles such as afros, braids, locks, and twists.

Appropriation: None.

Fiscal Note: Requested on January 22, 2020.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.