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New Jersey Becomes the Latest State to Propose a Ban on Discrimination Based on Hair and Hairstyle

If passed, the identical bills in the State Assembly and Senate would amend the Law Against Discrimination to ban discrimination based on hair texture, hair type, and protective hairstyles.

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Following a nationally reported incident in which New Jersey high school referee Alan Maloney forced a black wrestler to either have his dreadlocks cut or forfeit a match, New Jersey is the latest state to propose a ban on discrimination based on one's hair or hairstyle. Identical bills introduced on June 13, 2019 in both the State Assembly (A-5564) and Senate (S-3945) closely track California Senate Bill (SB) 188, which broadens the definition of "race" in California's anti-discrimination law to include hair texture and protective hair styles historically associated with race, such as braids, locks, and twists. Earlier this year, the New York Commission on Human Rights issued new Guidance also prohibiting discrimination based on "natural hair" or hairstyles.

The New Jersey bills would amend the Law Against Discrimination by defining "race" as "inclusive of traits historically associated with race, including, but not limited to, hair texture, hair type, and protective hairstyles." In addition, the bills define "protective hair styles" to include "hairstyles [such] as braids, locks, and twists." Each bill has been referred to its respective labor committee and is currently awaiting a hearing.

Employers in New Jersey, New York, and other states should closely monitor new developments in the area of discrimination based on hair or hairstyle. Employers must ensure that their grooming and appearance policies are compliant with this new legislation and that they are keeping managerial staff informed to avoid potential liability based on conduct that may be perceived as discriminatory involving hair or hairstyle.

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If you have any questions concerning New Jersey's proposed legislation, or any other federal or state employment laws, please feel free to contact Jennine DiSomma or Vincent C. Cirilli of Saiber LLC's Employment and Labor Law practice.