**TESTIMONY OF PROFESSOR D. WENDY GREENE FOR HEARING ON BEHALF OF MARYLAND HOUSE BILL 1444**

***Presented to the Health and Government Operations Committee***
***Maryland House of Delegates***
***Tuesday, March 6, 2020***

Delegate Shane E. Pendergrass, Chair of the Health and Government Operations Committee, and Committee Members:

Thank you for the opportunity to testify on behalf of House Bill 144. I am a Professor of Law at Drexel University Thomas R. Kline School of Law and the author of a forthcoming book, #FreeTheHair: Locking Black Hair to Civil Rights Movements. I, too, am a graduate of Xavier University of Louisiana, Tulane University School of Law, and the George Washington University School of Law where I specialized in comparative slavery and race relations in the Americas and Caribbean.

Over the past 12 years, I have published an authoritative body of legal scholarship, which calls on lawmakers like yourselves, to adopt definitions of race in concert with how race operates in society. Historically and contemporarily, characteristics like skin color, hair texture, and hairstyles are used to classify individuals on the basis of race and in turn, animate racial bias, stigmatization, and discrimination.

As one of the nation's leading legal scholars on "grooming codes discrimination" and Founder of the #FreeTheHair campaign, my scholarly and public advocacy is instrumental in creating civil rights protections on federal, state, and municipal levels—in particular, protections against racial discrimination in public and private spheres, like House Bill 144, which clarify that discrimination African descendants endure because of their natural hairstyles such as Afros, twists, locs, and braids ***is*** unlawful race discrimination.

Recently, the definition of race I proposed for the purposes of anti-discrimination law in my 2008 publication, "Title VII: What's Hair (and Other Race-Based Characteristics) Got to Do with It?," was endorsed by the Ninth Circuit of Appeals and cited by the Eleventh Circuit Court of Appeals in *EEOC v. Catastrophe Management Solutions*: an internationally renowned Title VII race discrimination case challenging the revocation of a Black woman's job offer because she refused to cut off her locs. This definition of race has been adopted in the landmark C.R.O.W.N. Acts, which are now law in California, New York, and New Jersey. I, too, assisted in the drafting of the federal C.R.O.W.N. Act recently introduced in the United States House of Representatives and the United States Senate.

Accordingly, I have devoted my career to not only activating legal reforms but also enhancing public awareness around the harms of unchecked discriminatory grooming policies—namely, policies that denigrate natural hairstyles as "distracting," "extreme," "excessive," "unkempt," and "unprofessional," and as we have seen recently in Texas and New Jersey respectively, grooming policies enforced against African descendant boys and men that require them to cut off their naturally locked hair in order to: maintain a job opportunity for which they are

qualified; receive a high school diploma they have earned; and participate in sporting competitions in which they rightfully advanced.

Similarly, when African descendant women and girls don natural hairstyles, they are deprived of employment, educational, and extra-curricular opportunities along with being subjected to heightened scrutiny, resulting discipline and harassment in schools and workplaces. Moreover, grooming policies prohibiting natural hairstyles require African descendant women and girls to either cut off their hair or wear their hair straightened; the latter is usually achieved through toxic chemicals, extreme heat-styling, wigs, and weaves, which are expensive and time-consuming to maintain. Long-term use of chemical relaxants, heat, wigs, and/or weaves often causes temporary or permanent damage to African descendant women and girls' hair and scalp. It is also common for African descendant women and girls to suffer through chemical burns while chemical relaxers are being applied to their hair and scalp, which are not only excruciatingly painful but also severely damaging. African descendant women and girls often endure temporary hair breakage, temporary and permanent balding, as well as scalp disorders like alopecia due to chemical relaxers as well as wigs, weaves, and extreme heat being applied. Naturally, balding, hair loss, and scalp damage engender emotional or psychological harms like stress, depression, diminished confidence and a negative body image alongside additional financial investments to repair the harm.

Research also indicates potential correlations between hair straightening products that African descendant women commonly use and their increased chances of developing uterine fibroids, hormone-related infertility, and more aggressive forms of breast and uterine cancer. Studies even indicate a possible linkage between chemical relaxants and increased hormonal activity amongst African descendant girls. Therefore, natural hair bans leave African descendant women and girls in a precarious Catch-22: either don your natural hair at the risk of ***lawfully*** being deprived of an employment or educational opportunity or don straight hair at the risk of enduring consequential temporary as well as permanent harms to your psychological, physical, and physiological well-being.

Currently, this precarious Catch-22 where many African descendant women and girls find themselves is lawful in 47 states due to a hair-splitting legal distinction federal courts have employed for nearly 40 years. Shortly after the Civil Rights Act of 1964 was enacted, federal courts adopted what is known as the "immutability doctrine," limiting the scope of legal protection against racial discrimination to "immutable, racial characteristics." Applying this misguided doctrine, federal courts have repeatedly declared that when an employer denies an African descendant a job because she adorns an Afro, the employer engages in unlawful race discrimination; however, the moment she twists, locks, or braids her Afro and suffers adverse treatment on those grounds, the employer's discrimination is deemed lawful.

House Bill 1444, like parallel C.R.O.W.N. Acts passed and introduced in almost half of the states, fills this unjustifiable gap in civil rights protection for African descendants who suffer natural hair discrimination: a pervasive form of racial discrimination that harkens back to eras of racial slavery and apartheid in this country. Indeed, early American jurists declared a "woolly" hair texture or a hair texture inclined to be "woolly" signified African ancestry; therefore, an individual's "woolly" hair texture, regardless of her skin color, could serve as the basis for her enslavement within a legal system reserving perpetual enslavement for African descendants.

Today, I strongly urge you to be on the right of side history by joining your fellow lawmakers across the nation and support House Bill 1444—a bill that will not only make U.S. history but also global history as one of the first laws to redress a longstanding, systematic form of racial discrimination African descendants encounter domestically and internationally.