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The Honorable William C. Smith, Jr.  
Senate Education, Energy, and the Environment  
2 West  
Miller Senate Office Building  
Annapolis, Maryland 21401  
February 7, 2023

**Testimony of FreeState Justice**  
**IN SUPPORT OF SB0199: Primary and Secondary Education - Comprehensive Health Education Framework - Established**

To the Honorable Senator Brian J. Feldman, Vice Chair Cheryl C. Kagan, and the esteemed committee:

FreeState Justice is Maryland's lesbian, gay, bisexual, transgender, and queer (LGBTQ+) civil rights advocacy organization. We provide free legal services to LGBTQ+ Marylanders who could not otherwise afford an attorney, and we advocate more broadly on behalf of the LGBTQ+ community. We support this bill for many of the same reasons as the other supportive witnesses, but with amendments. Our main concern about HB0119 is the opt-out provision for the topics of sexual orientation and gender identity, or SOGI.

The opt out sends a message to students that LGBTQ+ people are not on equal footing with cisgender, straight people. It reinforces the damaging messages that SOGI is a disposable part of an individual's lived experience, that there is a "correct" or "normative" way to identify, and that being LGBTQ+ is a uniquely unimportant, second-class status—in conflict with our existing laws which prohibit discrimination on the basis of SOGI and which mandate inclusivity in schools and equal protection and access.

To address some criticisms that the framework has received from anti-LGBTQ+ witnesses: Required instruction about SOGI is distinguishable from required instruction on the technical details of reproduction. Reproductive education speaks to personal acts in the privacy of the bedroom, while instruction on SOGI ensures that each student has cultural competency to respectfully interact with their peers in the classroom, and to participate in our workforce and economy where LGBTQ+ people are present in all manner of professional and commercial settings. Appropriate instruction on SOGI is valuable, foundational, and important for all Marylanders.

*FreeState Justice, Inc. (formerly FreeState Legal Project, Inc., merging with Equality Maryland) is a social justice organization that works through direct legal services, legislative and policy advocacy, and community engagement to enable Marylanders across the spectrum of lesbian, gay, bisexual, transgender, and queer identities to be free to live authentically, with safety and dignity, in all communities throughout our state.*

The opt out provision raises additional logistical problems and questions. It will be VERY difficult to separate SOGI from the other mandatory pillars of this framework. The LGBTQ+ community faces increased disparities in their mental and emotional health, increased rates of substance abuse, and are more vulnerable to targeted harassment and violence—each of which comprise the other elements of the curriculum. These discussions would be incomplete and inadequate without discussion of our community because instruction on SOGI permeates many facets of a student’s wellbeing. Further, will an opt out for the SOGI units mean that only heterosexual reproduction is taught to students not opted out of the family life and reproduction units? And what happens to the students who have to leave the classroom frequently because of how difficult it is to separate SOGI topics? Not only is this incredibly disruptive to their classmates, but it singles out the students whose parents made a choice *for* them, and probably removes the students from the classroom who need this valuable instruction the most.

Students are NOT allowed to opt out of instruction regarding HIV/AIDS. Considering that the virus disproportionately impacts our community, the bill’s language conflicts with itself, unless the HIV/AIDS education portion completely omits our community’s painful history with the virus.

We’d also like to point out that sexual orientation and gender identity are two distinct concepts and grouping them together especially for the purposes of this optout is problematic. For example: Just because someone is transgender does not mean that they are also lesbian, gay, or bisexual. For purposes of the framework, someone’s SO or GI can separately be bases for harassment. A cisgender, heterosexual student who is nonetheless defying expectations of their perceived gender may be the target of bullying, but for a completely *different* reason than a student who is bullied for their status as lesbian, gay, or bisexual but presents as conforming to expectations of their perceived gender.

So we urge an amendment that would instruct the department to develop its own, state-wide regulations that define any potential opt-out with all of this in mind, ensuring that all Maryland students have access to the same high-quality, comprehensive baseline of health education.

For these reasons, FreeState Justice urges a favorable report on Senate Bill 199.

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