2601 N. HOWARD STREET
BALTIMORE, MD 21218
TEL (410) 625-LGBT (5428)
FAX (410) 625-7423
www.freestate-justice.org

Camila Reynolds-Dominguez (she/her)
Policy Advocate and Legal Impact Coordinator
Creynolds-dominguez@freestate-justice.org

**Testimony of FreeState Justice – Favorable with Amendment – HOUSE BILL 602**

To the Honorable Chair Beidle, Vice Chair Klausmeier, esteemed Senate Finance Committee members:

FreeState Justice—Maryland's LGBTQ+ pro-bono legal services and policy advocacy organization—emphatically supports the concept behind HB602. Nobody should be discriminated against in the workplace because of their sexual orientation.

However, we have some serious concerns with the limited scope of the bill. This legislation was drafted as a response to *John Doe v. CRS*, decided by the Maryland Supreme Court this past August, which weakened the statutory protections afforded to all Marylanders under every state-level antidiscrimination clause. **HB602 does not go far enough to fix the full scope of problems created by the case, which is why we urge amendments to the bill to better address the decision's impacts.**

In footnote 14 of the decision, the court said "The General Assembly's practice, as we understand it, has been to specifically identify the categories it intends to protect in antidiscrimination statutes." The court held that if a protected category of individual is not specifically enumerated in a given antidiscrimination clause, the omitted category does not get the protections of the clause, even if they are protected elsewhere.

Though the case was filed because of alleged sexual orientation discrimination in the workplace, the *Doe* ruling is applicable to every single protected category currently enumerated anywhere in state law, and to all antidiscrimination language proposed in this or future sessions.

We conducted a survey of antidiscrimination clauses and found that the enumerations of protected classes are extremely inconsistent between clauses—not just for sex, sexual orientation, and gender identity, but also disability, religious belief, and race, among others. Under *John Doe v. CRS*, these inconsistencies mean that there are now significant gaps in the antidiscrimination framework within state law—meaning millions of Marylanders are not fully covered by these protections.

**While HB602 plugs one gap created by the decision, it does not at all come close to remedying the significant problems in the rest of our antidiscrimination laws created by *John Doe v. CRS*.** The General Assembly must take comprehensive action to rectify this far-reaching decision. Marylanders are currently without legal protections for many forms of discrimination, leaving them exposed to serious harms with no state-level legal recourse. The burden of this discrimination will fall on the most marginalized, who we know have the fewest resources to respond.

Absent a comprehensive response, any other current or future piecemeal attempts to remedy *Doe* like HB602 will only perpetuate the problem of patchwork antidiscrimination language that the decision created. Del. Gary Simmons' HB1397, which is dually assigned to the Judicial Proceedings Committee and this Committee, attempts to provide the comprehensive solution *Doe* demands. It passed the House 127-9. **Without HB1397 or similar action, all 6 million Marylanders' legal shield from discrimination will continue to have significant holes in it—HB602 does not fix that problem.**

In the wake of *Doe v. CRS*, the General Assembly must ensure that all people in every protected category are not subject to discrimination based on their protected characteristics in any context. **We are supportive of the concept of HB602 because we believe nobody should be discriminated in employment because of their sexual orientation, but it is imperative to realize HB602 will not come close to solving all the problems that *Doe V. CRS* created—only a comprehensive legislative response will.** That is why we urge an amendment to HB602 to incorporate as much of HB1397 into HB602 as this Committee is willing to include.

Respectfully submitted,

Camila Reynolds-Dominguez