



## Testimony for the House Ways and Means Committee

February 6, 2020

### HB 376 Election Law - Campaign Finance - Protection of Contributor Information

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#### UNFAVORABLE

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The ACLU of Maryland urges an unfavorable report on HB 376, which would prohibit the use of campaign finance information for commercial solicitation purposes and prohibit publication of information derived from campaign finance reports in newspapers, magazines, books, or other similar media for the purpose of facilitating commercial solicitation.

The Supreme Court has held, time and again, but most clearly in the case of *The Florida Star v. B.J.F.*, that publication of information that is truthful and has been lawfully obtained can only be punished when the state's interest is of the highest order and even so, the punishment must be narrowly tailored.<sup>1</sup> Although HB 376 does not articulate a penalty for violating its terms, the wholesale prohibition on publication of lawfully obtained information is not narrowly defined and cannot reasonably be construed to meet a compelling state interest. The bill is therefore unconstitutional on its face.

For the foregoing reason, we respectfully urge an unfavorable report on HB 376.

<sup>1</sup> *The Florida Star v. B.J.F.*, 491 U.S. 524 (1989) (“where a newspaper publishes truthful information which it has lawfully obtained, punishment may lawfully be imposed, if at all, only when narrowly tailored to a state interest of the highest order.”)

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