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February 4, 2022

The Honorable Delores Kelley
Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

Testimony of FreeState Justice

IN SUPPORT OF

SB303: Public Health - Nonconsensual Condom Removal - Prohibition

To the Honorable Chair Delores Kelley, Vice Chair Brian Feldman, and esteemed members of the Finance Committee:

FreeState Justice is Maryland's lesbian, gay, bisexual, transgender, and queer (LGBTQ) civil rights advocacy organization. Each year, we provide free legal services to dozens, if not hundreds, of LGBTQ+ Marylanders who could not otherwise be able to afford an attorney, as well as advocate more broadly on behalf of the LGBTQ+ community.

We write today in support of Senate Bill 303, which will empower victims to redress harms done to them through the nonconsensual removal of a condom during an otherwise consensual sexual encounter. Popularly known as "stealthling," nonconsensual condom removal is an act of sexual violation by which the victim's agency is ignored, subjecting them not only to emotional distress and trauma, but also the potential risk of STI transmission and/or pregnancy, which can have devastating physical and financial impacts.

While the range of safer sex options has dramatically expanded over the past several decades, barrier protection (e.g., condoms) remains an essential component in the management of many LGBTQ+ individuals' sexual health. Low-income LGBTQ+ Marylanders

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especially are less likely to be insured or have a primary healthcare provider, severely limiting their access to birth control, pre- and post-exposure prophylaxis for HIV (PrEP and PEP), and other preventative medications and treatments. Many of these LGBTQ+ community members (who are among those least able to afford a health problem or an unexpected pregnancy) are dependent on inexpensive or free condoms—as well as their partner’s respect for sexual consent. Stealthing not only violates that consent, it also denies individuals the ability to make informed decisions about their sexual and reproductive healthcare.

SB 303 would enable victims of stealthing to address the materials harms of this violation through civil actions, in which they could be awarded compensatory damages for the violation they have suffered. Awarding monetary damages shifts the focus of the law from punishing the perpetrator to instead supporting the victim’s agency and personal needs for healing.

Although stealthing is a form of intimate partner violence (IPV), addressing it only through a lens of criminality reduces the likelihood victims will come forward. LGBTQ+ people of color continue to face significant marginalization at the hands of our criminal justice system, leaving many both afraid to report an incident and doubtful of the likelihood a report would result in justice. Importantly, SB 303 neither precludes nor requires criminal interventions in addition to the civil action; in doing so, it respects the agency and autonomy that victims of stealthing have been denied by others.

By working to prevent stealthing and to enable victims to address the direct harms stealthing has caused in their lives, SB 303 would contribute to public health in the state of Maryland, while recognizing the fundamental human dignity of those who have been victimized.

For these reasons, FreeState Justice urges a favorable report on Senate Bill 303.

Sincerely,

Bianca Beebe, MPH
Policy Fellow
FreeState Justice