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The Honorable Joseline A. Pena-Melnyk House Health and Government Operations Committee
Room 241
House Office Building
Annapolis, Maryland 21401
February 23, 2023

**Testimony of FreeState Justice in Support, with Amendments
HB0482: Health – Donor–Conceived Individuals and
Gamete Agencies, Gamete Banks, and Fertility Clinics**

To the Honorable Joseline A. Pena-Melnyk, Vice Chair Bonnie Cullison, and the esteemed committee: FreeState Justice is Maryland’s civil rights advocacy organization for lesbian, gay, bisexual, transgender, queer, intersex, and asexual (LGBTQIA+) Marylanders. We also provide pro bono legal services each year to hundreds of LGBTQIA+ Marylanders who could not otherwise afford an attorney and we advocate more broadly on behalf of the LGBTQIA+ community.

We write today in support of House Bill 0482 with amendments. FreeState Justice is very supportive of two key elements of the bill: giving individuals of any age who were born through assisted reproduction using unknown donor gametes access to non-identifying medical information of their gamete donor and allowing donor-conceived persons over age 18 access to identifying information of their gamete donor, if that donor consented at the time of donation.

Building a family raises many important interests and issues, especially for LGBTQIA+ people. A significant number of families in the LGBTQIA+ community rely on assisted reproduction utilizing egg, sperm, and embryo donation. LGBTQIA+ parents, like so many others, plan their families but increasingly experience barriers and discrimination during the process of family planning. Even when successfully having children, many have issues becoming the legal parents of their own children. Although we support donor-conceived persons having access to important critical medical information, we want to ensure that the parent-child relationships in LGBTQIA+ families are protected under the law as well. In the amendments to this bill, we want to include necessary safeguards to ensure that assisted reproduction does not become more inaccessible or unaffordable, and that it is provided in a nondiscriminatory and inclusive way.

We are specifically worried by several provisions in this bill. Provisions that may lead towards national registration of donor-conceived persons or their families such as for the purposes of tracking the number of families created from a donor’s gamete.¹ Provisions that will make assisted reproduction more expensive such as increasing donor age limits, mandating donor

¹ See §§ 20–2302 (B)(2); 20–2303 (1)(III); 20–2305 (B)(2)(II), (E); 20–2307

educational requirements, or decreasing the pool of donors by removing anonymity.² Provisions that violate individual donors' privacy rights by requiring the release of social, genetic, and family medical history, and their identity.³

We would support a bill more closely modeled after Article 9 of the Uniform Parentage Act (2017),⁴ which has been successfully enacted in several states.⁵ We think Article 9 more directly and narrowly meets the intended goals of this bill without the creation of regulation that would adversely affect families that rely on assisted reproduction and spurring intense litigation over the various invasive measures.

FreeState Justice has clients that are fighting for their parental rights against known donors. This type of legislation without amendment could potentially cause additional issues when building their families and even more importantly when navigating custody issues in the event of a dissolved relationship or passing of a biological parent. We must ensure that de facto parents can establish parentage without astronomical costs and that legislation passed in this area does not usurp their rights to their children. We thank the sponsor Delegate Shetty and the other family law advocates who are working on this bill to ensure it meets the stated goals while also protecting the families formed via assisted reproduction.

For these reasons, FreeState Justice supports House Bill 0482 with amendment.

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² See §§ 20–2307 (E); 20–2305 (D); *and* the bill, generally.

³ See § 20–2301 (K)

⁴ “Summary,” 2017 Parentage Act, Family Law | Probate, Trusts, & Estates. Uniform Law Commission. Accessed Feb. 24, 2023. <https://www.uniformlaws.org/committees/community-home?CommunityKey=c4f37d2d-4d20-4be0-8256-22dd73af068f>

⁵ Colorado HB22-1153, HB21-1022, SB22-224 (2022), Connecticut HB6321 (2021), Maine LD222 (2021), Rhode Island HB7541, SB2136 (2020), California AB2684 (2018), Vermont HB562 (2018), Washington SB6036 (2018). Hawaii, Kansas, and Massachusetts are all considering enacting the UPA this legislative session. “Bill List” *id* at <https://www.uniformlaws.org/committees/community-home?CommunityKey=c4f37d2d-4d20-4be0-8256-22dd73af068f>