

March 6, 2023

FAV: H.B. 871

Del. Joseline A. Pena-Melnyk  
Chair, House Health and Government Operations Committee  
Maryland General Assembly  
Room 241  
House Office Building  
Annapolis, MD 21401

Del. Bonnie Cullison  
Vice Chair, House Health and Government Operations Committee  
Maryland General Assembly  
Room 241  
House Office Building  
Annapolis, MD 21401

Dear Delegates:

The Center for Inquiry (CFI) writes to express its support for H.B. 871 (“Declaration of Rights – Religious Freedom, Religious Tests, and Oaths and Affirmations”).

CFI is a national nonprofit organization dedicated to advancing science, reason, and secularism in American law and public policy. We have numerous members and supporters in Maryland.

CFI supports H.B. 871 because the state of Maryland must remove religious qualifications and tests from the requirements for state service found in the Maryland Constitution. **The cherished American principle of separation of church and state is clear on this issue and demands these changes to the state constitution.**

CFI commends Delegate Terri Hill for introducing this bill.

Essential Elements of the Bill

If passed and approved by Maryland voters, H.B. 871 would amend Articles 36, 37, and 39 of the Maryland Constitution to remove language that currently states, for instance: “That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him.” (This section of the state constitution relates to the religious liberty protections afforded to every citizen of Maryland.)

H.B. 871 would likewise remove the following: “provided, he believes in the existence of God, and that under His dispensation such person will be held morally accountable for his acts, and



be rewarded or punished therefor either in this world or in the world to come.” (This provision serves as a religious test for individuals before they can be jurors or witnesses in a court of law.)

Furthermore, H.B. 871 would alter the state constitutional provision that “no religious test ought ever to be required as a qualification for any office of profit or trust in this State,” which is currently subject to the qualification, “other than a declaration of belief in the existence of God.” The bill would entirely rescind that qualification.

### CFI’s Analysis

**CFI considers the continued existence of these constitutional provisions to be an ongoing act of discrimination against atheists, agnostics, and other nonbelievers.** These provisions essentially treat nonbelievers as second-class citizens when it comes to serving as jurors, witnesses, and government employees. It should go without saying that no person — anywhere, least of all in the United States — should face discrimination from the government for not believing in a divine being.

According to the Pew Research Center, 14 percent of surveyed adults in Maryland either do not believe in God (10 percent) or “don’t know” if they believe in God (4 percent).<sup>1</sup> Roughly 23 percent of adults in Maryland self-identify as religiously “unaffiliated,” with that figure including atheists (3 percent), agnostics (3 percent), and “nothing in particular” (17 percent). **Given that nearly a quarter of Maryland’s population is part of the religious “nones,” H.B. 871 is necessary to vindicate the rights of a significant portion of the state’s population.**<sup>2</sup>

The number of nonbelievers also continues to grow nationally, and increasingly the provisions corrected by this bill are out of step with the views and belief systems of Maryland residents.

The Supreme Court of the United States unanimously ruled in *Torcaso v. Watkins*, 367 U.S. 488 (1961) that the Declaration of Rights, Article 37, of the Maryland Constitution violated the First and Fourteenth Amendments of the U.S Constitution by requiring citizens to state a belief in God as a qualification for public office in the state.

Writing for the Court, Justice Hugo L. Black opined that this requirement places the “power and authority of the State of Maryland ... on the side of one particular sort of believers — those who are willing to say they believe in ‘the existence of God.’” Justice Black’s opinion added that neither a state government nor the federal government “can constitutionally pass laws or impose requirements which aid all religions against nonbelievers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs.”

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<sup>1</sup> <https://www.pewforum.org/religious-landscape-study/state/maryland>

<sup>2</sup> *Id.*



**The provisions discussed above, which have remained in the state constitution for more than 60 years since that decision, violate directly controlling Supreme Court precedent.**

Moreover, the Maryland Constitution flatly contradicts the U.S. Constitution's Article VI, Paragraph 3, which declares that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."

The Maryland General Assembly can take a step in the right direction by removing the impermissible language from the state constitution, consistent with the foundational American principle of separation of church and state.

CFI urges the Maryland General Assembly to vote in favor of H.B. 871. Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Azhar Majeed', is positioned above the typed name.

Azhar Majeed  
Director of Government Affairs  
Center for Inquiry

