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The Honorable William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401
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**Testimony of FreeState Justice in Opposition to
SB0566: Family Law – Fundamental Parental Rights**

To the Honorable William C. Smith, Jr., Vice Chair Jeff Waldstreicher, 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 staunch opposition to Senate Bill 0566. Senate Bill 0566 is vaguely worded, overbroad, and would establish that only a parent—and nobody else, not even guardians by the bill's own terms—has the fundamental right to direct the upbringing, education, care, and welfare of their child(ren). It additionally prohibits the State or a political subdivision from infringing on that right, with the caveat that it does not authorize a parent of a minor child to engage in conduct that is unlawful or to abuse or neglect the minor child. We do not believe that everything aside from abuse, neglect, or criminal activity should be at the total discretion of each parent for their specific child(ren), with no input from the state. Current Maryland law already gives parents much discretion and responsibility for their children's upbringing in all areas of their child's life. Parents can and do make choices regarding educational options, team sports involvement, activities participation, medical decisions, religion and the practice thereof, community involvement, access to technology and social media, friends and relationships, entertainment choices, and travel, to name a few. So, with all those opportunities (and more!) for a parent to direct their child's development and growth, we must ask what specifically can a parent not do that this bill will allow them to? We cannot tell from the vague and overbroad language of this bill.

The Maryland State Department of Education and local county school boards ensure the collaboration and involvement of families and communities in the public education system. This necessary function of our government is possible largely because of the department's ability to exercise its professional judgment in school administration without undue burden from each parent wanting a specific curriculum, attendance requirements, discipline, grading and reporting requirements specifically for their child(ren). Passing SB0566 will certainly interfere with this function.

*FreeState Justice, Inc. (formerly FreeState Legal Project, Inc., merging with Equality Maryland)
is a social justice organization that works through direct legal services, legislative and policy advocacy, and community engagement to enable Marylanders across the spectrum of lesbian, gay, bisexual, transgender, and queer identities to be free to live authentically, with safety and dignity, in all communities throughout our state.*

This bill could also interfere in the orders from various family courts around the state. Guardianship, custody, visitation, child support and protection orders are all made to safeguard the child(ren) at the heart of such orders and having a superseding parental rights bill could impact the validity of those orders—and in a child abuse or neglect case, such a bill could severely impact the safety of the child(ren). The courts currently follow a “best interest of the child” standard, and this bill may effectively change that standard to the best interests of the parent, which unfortunately can be in direct opposition to their children’s interests. The courts are there to protect children when they are at their most vulnerable, and a bill hindering that protection is sadly misguided and even dangerous.

Studies of LGBTQIA+ parents in the United States indicate the importance of supportive laws and policies. For instance, legal marriage recognition has been shown to be associated with greater social support among same-gender couples.¹ Thus, it appears that LGBTQIA+ parents who live in less favorable social conditions with increasingly negative legislation are generally disadvantaged, whereas those in more supportive conditions tend to enjoy many benefits. The current slate of legislation proposed in statehouses across the country unfortunately includes many measures that would restrict LGBTQIA+ issues in school curriculums, permit religious exemptions to discriminate against LGBTQIA+ people in public spaces, and limit trans people’s ability to play sports, use bathrooms that correspond with their gender identity, receive gender-affirming health care, and even appear in public. As an LGBTQIA+ advocacy organization we would be remiss if we did not mention that many of these arguments over parental rights originate because certain parents want to exclude the mention of our community in school curriculums, in health education, and ultimately from public life. One of this movement’s goals is to disallow children the freedom to be who they are—which includes being a member of the LGBTQIA+ community—regardless of whether they are the parent of that child. Examples of this dynamic in other Maryland Bills proposed this year include the Save Women’s Sports Act, which sought to specifically exclude transgender people from playing on the athletic team that matches their gender identity.

When a bill comes before the General Assembly that is this broad, we must wonder about its impact on our community and our children, and if they will suffer at the hands of legislators who have sworn to protect them. Proponents of these bills say they are about protecting children, parental rights, religious freedom or a combination of these. We contend that they are harmful, potentially discriminatory, and are more about currying favor with conservative voters than protecting all constituents.

The benefits of the vague rights given to parents in this bill are overwhelmingly outweighed by the potential unintended and harmful consequences of this bill to our various systems and the futures of all our children. The criteria in this bill are overbroad and vague and will conflict with settled Supreme Court precedent, Maryland case law and Maryland Statutes. The result of these conflicts would be extremely costly litigation and the imposition of uncertainty upon our Maryland institutions and communities.

For these reasons, FreeState Justice opposes Senate Bill 0566 and urges an unfavorable report.

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¹ Riggle, E. D. B., Wickham, R. E., Rostosky, S. S., Rothblum, E. D., & Balsam, K. F. (2017). Impact of civil marriage recognition for long-term same-sex couples. *Sexuality Research & Social Policy*, 14(2), 223–232.