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Testimony of FreeState Justice -- IN SUPPORT OF HOUSE BILL 1283

To the Honorable Chair Wilson, Vice Chair Crosby, esteemed House Economic Matters committee members:

FreeState Justice—Maryland's LGBTQ+ pro-bono legal services and policy advocacy organization—emphatically supports the HB1283. Nobody should be discriminated against because of their sexual orientation or gender identity in the insurance context. LGBTQ+ Marylanders deserve robust protections in all parts of life, law, and society, and insurance coverage is no exception.

As the state's legal services provider for low-income LGBTQ+ Marylanders, our clients frequently come to us alleging discriminatory denials and roadblocks to coverage based on their sexual orientation and gender identity. **Discriminatory denials and barriers to coverage must be stopped and removed, and this legislation is a significant improvement to existing law that will go a long way towards remedying these harms.** We applaud Delegate Martinez and the cosponsors of this bill for their commitment to ensuring Marylanders are protected in this context.

By this point, you have heard us testify multiple times regarding the Maryland Supreme Court's decision in *John Doe v. CRS* and its significant impacts to all antidiscrimination protections afforded in state law to Marylanders. This legislation plugs one of the holes created by the *John Doe v. CRS* case, which, as a reminder, weakened the statutory protections afforded to all Marylanders under every state-level antidiscrimination clause. **While we strongly support HB1283, we'd like to emphasize to the Committee that this bill will not fix all the problems created by the case.**

In footnote 14 of the decision, the court said "The General Assembly's practice, as we understand it, has been to specifically identify the categories it intends to protect in antidiscrimination statutes." In a nutshell, the court held that if a protected category of individual is not specifically enumerated in a given antidiscrimination clause, the omitted category does not get the protections of the clause, even if they are protected elsewhere.

Though the case was filed because of alleged sexual orientation discrimination in the workplace, the *Doe* ruling is applicable to every single protected category currently enumerated anywhere in state law, and to all antidiscrimination language proposed in future sessions.

We conducted a survey of antidiscrimination clauses and found that the enumerations of protected classes are extremely inconsistent-- not just for sex, sexual orientation, and gender identity, but also disability, religious belief, and race, among others. Under *John Doe v. CRS*, these inconsistencies mean that there are now significant holes in the antidiscrimination framework within state law. **HB1283 plugs one hole created by the decision in the insurance context, but like HB602 which was heard earlier by this Committee, it does not remedy the other significant gaps in our antidiscrimination laws that were created by *John Doe v. CRS*.**

We have been calling on the General Assembly to take swift and comprehensive action to rectify this far-reaching decision. Marylanders are currently without legal protections for many forms of discrimination, leaving them exposed to serious harms with no state-level legal recourse. The burden of this discrimination will fall on the most marginalized, who we know have the fewest resources to respond. For this reason, we are very glad to see this effort to protect LGBTQ+ Marylanders from discrimination in the insurance context.

But as we have emphasized in other testimony, absent a comprehensive response, any other current or future piecemeal attempts to remedy *Doe* will only perpetuate the problem of patchwork antidiscrimination language that the decision created. **Without comprehensive action, all 6 million Marylanders' legal shield from discrimination will continue to have significant holes in it.**

The General Assembly must ensure that all people in every protected category are not subject to discrimination based on their protected characteristics in any context. **We are favorable on HB1283 because we believe nobody should be discriminated against by insurance providers because of their sexual orientation or gender identity, but it is imperative for the Committee to realize HB1283 will not solve the problems that *Doe V. CRS* created—only a comprehensive legislative response will.**

Again, we thank Delegate Martinez and the cosponsors of this bill for their work to protect LGBTQ+ Marylanders from discrimination and we urge this committee to give this bill a favorable report.

Respectfully submitted,
Camila Reynolds-Dominguez