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The Honorable Chair William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East
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Testimony of FreeState Justice
IN SUPPORT OF SB0134: Office of the Attorney General - Correctional Ombudsman Unit

To the Honorable Chair William C. Smith Jr., Vice Chair Jeff Waldstreicher, and esteemed members of the Judicial Proceedings Committee:

FreeState Justice is Maryland's lesbian, gay, bisexual, transgender, queer, intersex, and asexual (LGBTQIA+) civil rights advocacy organization. Each year, we provide free legal services to hundreds of LGBTQIA+ Marylanders who would not otherwise be able to afford an attorney and advocate more broadly on behalf of the LGBTQIA+ community. As part of this work, we routinely represent and advocate on behalf of clients under the supervision of Maryland's Department of Public Safety and Correctional Services (DPSCS), who continue to face intense discrimination and abuse while detained.

We write today in support of Senate Bill 134, which establishes the Correctional Ombudsman Unit in the Office of the Attorney General. The type of direct and independent oversight established by this bill will directly impact our most vulnerable LGBTQIA+ clients, those who are incarcerated and under the jurisdiction of the DPSCS. This bill is extremely important to us because our community faces higher rates of incarceration than the general population. For instance, according to the 2015 U.S. Transgender Survey¹, the largest and most comprehensive published survey of the United States transgender community to date, 16% of all transgender adults have been in a prison or jail. This compares with 2.7% of all adults who have ever been in prison, and 10.2% of all adults who have ever been under any kind of criminal justice supervision, including probation.

¹ James, S. E., et al. THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY at 154-55 (National Center for Transgender Equality 2016), available at <https://transequality.org/issues/resources/national-transgender-discrimination-survey-full-report>.

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.

FreeState Justice receives regular calls, emails, and intake requests from family members and friends of incarcerated individuals looking for assistance navigating the bureaucracies of the DPSCS. These profoundly serious complaints include, but are not limited to, the lack of access to basic necessities, healthcare, and prescriptions; improper and unsafe housing; sexual harassment and sexual assault; extended periods of solitary confinement for those in at-risk populations; and fear of retaliation and abuse. Our clients have very few options when reporting these issues and have limited means to find representation for habeas petitions and other court proceedings that take time and may not have an immediate impact on their treatment received while in detention. Often, we are only able to advise our clients to either follow the Inmate Grievance Office (IGO) process or to call the Prison Rape Elimination Act (PREA) hotline numbers. The IGO essentially requires them to submit a complaint to the very same officers for which they are reporting violations of various rules, regulations and/or constitutional rights. Access to the IGO forms can be limited or manipulated and coupled with a fear of retaliation, this has a chilling effect on the grievance process overall. The Ombudsman Unit, reviewing the complaints as a neutral third party, will allow the reporting to be free from retaliation or coercion, can ascertain systemic problems and can expeditiously implement solutions to these problems. This could affect positive change that results in an overall reduction of the complaints relating to that particular problem as opposed to the limited effects of the case-by-case grievance process utilized by DCSPS. Similarly futile, calls made to PREA hotlines typically do not receive a response and the caller is not made aware of whether issues are being investigated and/or resolved. This is in stark contrast to the reporting requirements and public information sharing proposed in this bill.

We anticipate the data the Ombudsman's office will collect regarding the overall environment of Maryland's correctional system will be more accurate and reliable. The ability to visit any facility at any time and speak with anyone in that facility is an incentive for individual facilities leadership to ensure officers and staff are consistently following the proper policies and procedures. This should result in a more positive rehabilitative environment, which can not only sustain and reassure the security and safety of the incarcerated, but also the officers and staff of the facilities. With a vibrant and vigorous oversight process, we can see decreased complaints overall and, in concert, reduced recidivism rates across the state.

We are confident the Ombudsman's office will create a heightened awareness of the confinement conditions experienced by the LGBTQIA+ population. This will better assist advocates and attorneys in assessing these conditions and working together within the system to create an environment that promotes the safety, mental well-being, physical well-being, and overall health of this vulnerable population.

We join others in the efforts to eliminate widespread corruption, harassment, abuse, and the systemic dysfunctions within our detention centers and our correctional system as a whole, and this bill would put us closer to fulfilling DPSCS's mission of "protect[ing] the public, its employees, and detainees and offenders under its supervision."

For these reasons, FreeState Justice urges a favorable report on Senate Bill 134.

Lauren Pruitt, Esq.

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