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AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION OF
MARYLAND

HB 822 – Declaration of Rights – Religious Freedom, Religious Tests, and Oaths and Affirmations

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The ACLU of Maryland urges a favorable report on House Bill 822, which would remove various religious references in the Maryland Declaration of Rights. Additionally, the bill would remove existing religious tests and verbiage that explicitly states a preference for religious attestations in oaths and affirmations. This bill would also remove exclusionary, gendered language from the document.

Under the First Amendment, Religious freedom includes two complementary protections: the right to religious belief and expression and a guarantee that the government neither prefers religion over non-religion nor favors particular faiths over others. Numerous references in the Maryland Declaration of Rights violate the latter of these dual protections. Additionally, language throughout the document establishes certain rights through references that assume a belief in God and limit the scope of those rights to those who believe in monotheism.

Throughout Articles 36, 37, and 39, the enumeration of certain religious rights is juxtaposed by inherently exclusionary language that punishes those who do not subscribe to monotheism. In Article 36 of the Declaration of Rights, certain civil rights and liberties are laid out for people of all religious persuasions to enjoy, provided they believe in God.

Additionally, language in Article 37 bans the use of religious tests, while also requiring that state officials declare a belief in God. Such qualifications are archaic, discriminatory, and conflict with Article Six of the United States Constitution.

In Article 39, language pertaining to oaths and affirmations borders on a violation of the First Amendment's Establishment Clause and the Lemon test, as it gives preferential status to monotheistic religious attestations.¹

The verbiage in question is archaic and not representative of the diversity of beliefs that exist in the state of Maryland. For the foregoing reasons, the ACLU of Maryland fully supports HB 822.

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¹ *Lemon v. Kurtzman*, 403 U. S. 602 (1971)