



**Unfavorable Statement SB04/HB514
Keeping Charities Nonpartisan Act**
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We Respectfully Oppose SB04/HB514

This bill will chill free speech in Maryland

On behalf of our chapters and members across the state, we oppose SB04/HB514. This bill would weaponize the State and infringe upon citizens' First Amendment rights of freedom of speech, assembly and redress. The bill would empower the State to utilize unilateral administrative means to target conservative nonprofit organizations with administrative penalties and disenfranchisement.

Contrary to legal principle, the bill would put the burden on nonprofit organizations to disprove accusations made by the State that they coordinated election activities with a particular political candidate or party, and deny these organizations their day in court. As a result, nonprofits could be denied their charter and registration with the Maryland Secretary of States and other executive branch departments without sufficient opportunity to redress the government for the infringement of their speech.

The bill challenges Supreme Court precedent articulated in the *Citizens United v. Federal Election Commission* which held that corporations and nonprofit organizations are a collection of citizens and therefore these organizations can invest money on political elections, as long as they do not directly support a candidate or party. By enacting this bill into law, the Assembly would be inviting litigation and possibly, an appeal to the Supreme Court of the United States, which would likely result in favor of nonprofit organizations and free speech.

CONTENT DISCRIMINATION INFRINGES ON CONSTITUTIONAL RIGHTS

It is our position that this bill will empower the State to infringe upon First Amendment rights in order to suppress political or ideological opponents. The bill could make pro-life citizens and others, victims of endless lawfare.

The First Amendment exists to protect the rights of citizens to speak out against the actions of their Government. Our laws, including anti-SLAPP laws, should ensure equal protection to all citizens, particularly those with whom the Government disagrees. The current statute protects defendants against frivolous lawsuits.

However, this bill proposes to utilize the administrative state to circumvent and undermine the First Amendment protections currently cited in Section 5-8007(b)(d) of the Courts and Judicial Proceedings Article which states that a SLAPP suit is a suit "Intended to inhibit or inhibits the exercise of rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights."

FEDERAL PRECEDENT PROHIBITS TARGETING PRO-LIFE SPEECH

In conflict with federal court precedent, this bill attempts to weaponize the administrative state against **pro-life speech which has been under attack as commercial speech** in Maryland. In [*Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Baltimore*, 879 F.3d 101 \(4th Cir. 2018\)](#), the City of Baltimore acting on behalf of abortion advocates, attempted unsuccessfully to put pro-life pregnancy centers out of business by enacting a targeted ordinance against **commercial** speech as "deceptive advertising".

The federal appeals court for the 4th Circuit affirmed the lower court's decision in favor of the pro-life pregnancy center, noting that *"the City has considerable latitude in regulating public health and deceptive advertising. But Baltimore's chosen means here are too loose a fit with those ends, and in this case compel a politically and religiously motivated group to convey a message fundamentally at odds with its core beliefs and mission."* The City also failed to establish that the pro-life pregnancy center was engaged in commercial or professional speech, which required the Court to apply higher scrutiny against the government action. Without proving the inefficacy of less restrictive alternatives, providing concrete evidence of deception, or more precisely targeting its regulation, the City did not prevail.

We respectfully urge you to do your duty to guarantee the First Amendment freedoms of Maryland citizens and the nonprofit organizations that they form together, and to preserve the integrity of this Assembly, by rejecting SB04/HB514 and its weaponization of the administrative state against Maryland citizens and their freedom of speech.

Respectfully Submitted,
Laura Bogley, JD
Maryland Right to Life