



Testimony for the Senate Finance Committee

March 11, 2026

SB 857 – Labor and Employment – Civic and Related Activities – Protection (Maryland Employee Civic Activity and Lawful Expression Protection Act)

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The ACLU of Maryland supports SB 857, which supports the freedom to lawfully engage in, or disengage from, political expression without the fear of workplace retaliation. As existing protections are limited, varied, and often unclear, this bill is an important step toward affirming employee rights under state law.

Throughout the near-century of work by the ACLU to protect civil liberties, securing the right to free speech and expressive activity has predominated our mission. While the ability to freely participate in political activity is the foundation of democracy, it is continuously subject to threats levied by those pushing broad conformity to certain political ideologies. As the current administration continues to enthusiastically engage in brazen retaliation against critics and anyone else unwilling to fall in line,¹ there is an abundant need for clear guardrails against unwarranted limitations on free speech.

In Maryland, adverse actions solely driven by political beliefs continue to directly imperil the livelihoods of those working in our communities. This includes many who have contacted us directly seeking support after being fired or disciplined for lawful expression unrelated to their jobs and done in their free time, such as a teacher subject to discipline following a social media post that clearly read as tame sarcasm and was made on a personal account.

Especially as increasing levels of anti-immigrant rhetoric work to heighten the politicization of basic human rights, leaving such retaliation unaddressed deeply erodes the fundamentals of freedom in

¹See <https://www.aclu.org/news/free-speech/protecting-free-speech-in-the-face-of-government-retaliation>.

Maryland, as well as the ability to freely support those subject to politically-motivated harm.

State-based protections from this terrifying reality are needed for all employees, including private employees who are generally employed at-will and can thus be fired for any reason at anytime except a few limited circumstances. However, under SB 857, only public employees would be protected, as well as an additional subset of workers who may be covered under a vague provision that includes “a person that acts directly or indirectly in the interest of another employer with an employee” within the definition of an employer. In addition to the benefit of improving this definition with clarifying language, future efforts are needed to ensure private employees can likewise enjoy these needed protections.

However, as a first step, SB 857 provides helpful language to better safeguard public employees amid varying applications of existing protections provided by the First Amendment. While the US Supreme Court confirmed in *Pickering v. Board of Education*, 391 U.S. 563 (1968) that, in general, public employees cannot be fired for speaking on issues of public concern as private individuals, the ACLU is currently engaged in a legal fight over what this means and how far it extends.²

With this lack of clarity, the ACLU of Maryland urges a favorable report on SB 857 to help provide a clearer foundation of state-based protections.

² <https://www.riaclu.org/news/aclu-files-court-brief-in-public-employee-free-speech-case-arguing-that-disparaging-speech-is-not-entitled-to-less-protection/>