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The Honorable William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

Testimony of FreeState Justice

IN SUPPORT OF

SB735: Criminal Law – Sodomy and Unnatural or Perverted Sexual Practice – Repeal

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, and queer (LGBTQ) civil rights advocacy organization. Each year, we provide free legal services to dozens, if not hundreds, of LGBTQ Marylanders who could not otherwise be able to afford an attorney, as well as advocate more broadly on behalf of the LGBTQ community.

We write today in support of Senate Bill 735, which would repeal Maryland's outdated, dehumanizing, and largely unconstitutional sodomy law.

Maryland's sodomy law, presently encoded in sections 3-321 and 3-322 of the Criminal Law article, remains on the books despite a series of court decisions – at both the state¹ and federal level² – that have ruled the law largely unconstitutional. While Maryland's law and policies have shifted dramatically in favor of LGBTQ rights, Maryland's sodomy statute remains a vestige of an earlier time when institutionalized homophobia was enforced through the state's criminal code.

¹ *Schochet v. State*, 320 Md. 714 (Md. 1990); *Williams v. Glendenning*, No. 98036031/CL-1059 (Baltimore City Cir. Ct. Oct. 15, 1998, Jan. 19, 1999).

² *Lawrence v. Texas*, 539 U.S. 558 (2003).

Since the *Williams v. Glendinning* decisions by the Circuit Court of Baltimore City in 1998-1999 and the United States Supreme Court's decision in *Lawrence v. Texas* in 2003, Maryland's sodomy law has been largely unenforceable, except in cases where conduct was already prohibited by other laws. But while the law might have been scarcely used, the fact that it remains a part of the Maryland Code is an affront to the state's LGBTQ community, for at its core it was a law designed to target us and criminalize our existence.

In the years since *Williams* and *Lawrence*, Maryland has largely embraced LGBTQ+ rights. In 2005, the state expanded the definition of hate crimes to include sexual orientation and gender identity. In 2012, the Marriage Protection Act granted Marylanders in same-sex couples equal access to the institution of marriage. The Fairness for All Marylanders Act in 2014 expanded state non-discrimination laws to include gender identity. In 2018, Maryland banned conversion therapy. Just last year, Maryland began offering a third gender marker on driver's licenses and state IDs. And these are just a few of the many laws and policies adopted by the state of Maryland in the two decades since *Williams*.

And yet, Maryland's sodomy law still remains on the books.

The time has come for the state of Maryland to remedy this injustice, to remove this badge of criminality and dehumanization from LGBTQ+ Marylanders.

For this reason, FreeState Justice urges a favorable report on Senate Bill 735.