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**Bill:** HB0083

**Title:** Action for Change of Name – Minors – Prohibition of Publication Requirement

**Date:** March 27, 2019

**Position:** Oppose

To the Honorable Bobby A. Zirkin and Esteemed Members of the Judicial Proceedings Committee:

FreeState Justice advocates for the LGBTQ community across our state with a strong focus on youth issues and represents hundreds of LGBTQ clients each year. Our identity documents practice, which consists of, *inter alia*, obtaining name changes under Maryland Rule 15-901, is a cornerstone of our work. For many of our clients, obtaining a court order confirming their name of common use is a monumental piece of their journey in affirming their identities and living full lives with dignity. Since 2013 we have helped hundreds of adult and minor transgender Marylanders to obtain court ordered name changes.

ACLU of Maryland was founded in 1931 and works to ensure that all people in the state of Maryland are free to think and speak as they choose and can lead their lives free from discrimination and unwarranted government intrusion. The organization has worked for decades to advance LGBT rights in Maryland through litigation, legislative advocacy, and public education.

Although Rule 15-901(e) separately requires that each of the minor's parents receive notice of the name change, the Rule also currently requires that minors undergo the Rule's publication requirement in order to obtain a name change. This involves broadcasting details of the client's current legal name and the name they wish to change it to in a local newspaper. For instance, a person's identity as a person who is transgender is oftentimes easy to infer if they are, for example, going from a traditionally feminine name to a traditionally masculine name.

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*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.*

Given the serious safety and privacy concerns transgender people face if they are outed, House Bill 0083 was originally designed to waive the publication requirement for minors in certain name change actions brought under Rule 15-901. At present, the bill's original intent is not recognizable. The bill, as amended would make the name change process more burdensome and dangerous for many transgender Marylanders. In its current form, it stands in stark contrast to Maryland's commitment to affirming the identity for transgender Marylanders as outlined in the Fairness for all Marylanders Act and would make Maryland an outlier in its requirements for obtaining a name change.

The bill changes existing rules to require either a consent requirement from parents, guardians, or custodians of an unemancipated minor or a best interest analysis by the courts in considering a publication requirement. Currently, Maryland Rule 15-901 requires that parents, guardians, or custodians of an unemancipated minor are served notice of a petition for name change but does not require consent to the proposed name change. Frequently, our unemancipated minor clients may have a parent who is served with the petition, but who does not respond to the petition. Given the significant family rejection transgender youth may face, the consent requirement adds a significant burden for minors that does not currently exist.<sup>1</sup>

In addition, requiring courts to perform a best interest analysis would not only be devastating to our clients in terms of time and expense, but would also chill minors who are transgender from seeking name changes. It would also unduly weigh the process down during what it is supposed to be a preliminary motion (i.e., the decision whether or not to publish the notice of name change) as courts struggle to determine what the best interest of a child is at this stage of the proceeding.

The bill also requires minors petitioning for a name change to submit information not only about sex offender status but also prior convictions of a crime charged as an adult. Information about previous convictions is both irrelevant to a name change and a violation of a petitioner's right to privacy. As a result, these

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<sup>1</sup> According to the U.S. Transgender Survey, the largest survey of transgender people in the U.S., 40% of respondents who were out to immediate family members had families that were neutral or not supportive, with 18% of those having families that were expressly unsupportive. Additionally one in ten (10%) of those respondents reported that an immediate family member had been violent towards them because they were transgender. Fifteen percent (15%) of those respondents ran away from home and/or were kicked out of the house because they were transgender. Finally, more than one-quarter (26%) of those respondents reported that an immediate family member stopped speaking to them for a long time or ended their relationship altogether because they were transgender.

James, S. E. et al. (2016). The Report of the 2015 U.S. Transgender Survey at 65, 70, Washington, DC: National Center for Transgender Equality.

unnecessary requirements would deter individuals from petitioning for a change of name. Given that the impetus behind the bill is to protect transgender people, and that the other exemptions in law (e.g., adoption and divorce) do not impose such requirements, there appears to be an intent to instead stigmatize transgender individuals by connecting certain name changes with a motive to conceal criminal conduct. In other words, it is difficult to read this language as anything other than an assumption that individuals who are transgender seek name changes to hide prior convictions rather than as a means of affirming who they are by obtaining accurate state identification. It is worthy to note that the MVA does not require such information in issuing state IDs. Further, no other neighboring jurisdictions require disclosure of one's prior convictions as a requirement to waive publication of a pending name change. Indeed, Virginia and the District of Columbia do not require publication at all.

This bill will create new barriers to the name change process for too many transgender children in Maryland, especially those with unsupportive or absent family members.

We respectfully urge an unfavorable report.

Sincerely,

