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**Testimony for the House Health and Government Operations Committee
March 8, 2011**

**HB 285 – Human Relations – Discrimination by a Place of Public
Accommodation – Enforcement and Remedies**

SUPPORT

The ACLU of Maryland urges a favorable report on HB 285, a bill which would expand the remedies available to victims of discrimination by places of public accommodation. The ACLU of Maryland has over 14,000 members supporting our mission to protect civil rights and liberties as set forth in the U.S. Constitution, the Bill of Rights and the Maryland Declaration of Rights. We operate a complaint phone line to receive calls from Marylanders throughout the state reporting civil rights violations and concerns and, unfortunately, receive calls from people who have been discriminated against by places of public accommodation. The ACLU of Maryland can only take a few of these cases. We rely on partnership with private law firms and attorneys to take other cases on a pro bono basis. In addition, we must refer many cases to other groups and the Maryland Human Relations Commission.

Legal Services for Discrimination Victims Are Difficult to Obtain. Our experience is the same as that of other public interest legal organizations. Marylanders who are victims of discrimination have a difficult time obtaining the legal services required to address that discrimination and to enforce their rights. The cases can be complex and the clients frequently cannot afford to retain necessary legal counsel. The requirement to file in federal court is another obstacle to legal representation. Fewer attorneys practice in federal court and litigation in federal court is more expensive.

Marylanders deserve the protections of Maryland law in Maryland courts. Current law requires Marylanders to seek redress for public accommodations discrimination primarily through federal court under federal law. However, Maryland's citizens should have their basic rights protected under state law and should have access to the state courts—to their local courts where they live and work.

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Maryland Commission on Human Relations (MCHR) does not have adequate resources to handle these cases.

Without a private right of action in state court , victims of discrimination often have no remedy unless the MCHR (or local human relations agency) has the resources to adequately investigate and prosecute the case, which they do not. Their annual report, http://mchr.state.md.us/cgi-script/csNews/news_upload/AnnualReports_2edb.Annual_Report_2010_Final_Draft.pdf, states that the average age of a public accommodation complaint in the agency is well over a year (much longer than employment or housing complaints). So without a private right of action, there is often no remedy. In one example of this, a woman complained to our office that she was the victim of blatant racial discrimination by an inn on the Eastern Shore. With no private right of action we could not represent her, so referred her to MCHR. Her case has now been pending for more than a year.

Private right of action is critical to vigorous protection of rights. One of the basic premises of the American judicial system and civil rights jurisprudence specifically is that providing individuals with the means by which to address and resolve civil rights and discrimination ensures comprehensive prevention and enforcement of the laws without imposing a burden on government. It allows individual cases to receive the attention they deserve with intervention and remedies tailored in scale and scope to the harm done. It ensures that the claims of even the most vulnerable and marginalized, those most likely to suffer discrimination, are heard.

The ACLU of Maryland urges a favorable report on HB 285.