

HOUSE BILL 871

D5, G1
HB 181/22 – HGO

CONSTITUTIONAL AMENDMENT

3lr2692
CF 3lr3067

By: **Delegate Hill**

Introduced and read first time: February 9, 2023

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Declaration of Rights – Religious Freedom, Religious Tests, and Oaths and**
3 **Affirmations**

4 FOR the purpose of altering and removing references to requiring a belief in God from
5 certain provisions relating to religious freedom, religious tests, and oaths and
6 affirmations.

7 BY proposing an amendment to the Maryland Constitution
8 Declaration of Rights
9 Article 36 and 37

10 BY proposing a repeal of the Maryland Constitution
11 Declaration of Rights
12 Article 39

13 Preamble

14 WHEREAS, Article VI of the United States Constitution states that “no religious
15 test shall ever be required as a qualification to any office or public trust under the United
16 States”; and

17 WHEREAS, In 1961, the United States Supreme Court in *Torcaso v. Watkins* struck
18 down the requirement in Article 37 of the Declaration of Rights that no religious test ought
19 to be required as a qualification for office, “other than declaration of belief in the existence
20 of God”; and

21 WHEREAS, In 1965, The Court of Appeals of Maryland in *Schowgurow v. State*
22 struck down the requirement in Article 36 of the Declaration of Rights that witnesses and
23 jurors believe in the existence of God, explaining that its decision was “the inevitable result
24 of the Supreme Court’s decision in *Torcaso*” and that the law is clear that “the exclusion of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 persons from jury service because of their lack of belief in a Supreme Being is in violation
2 of the Federal Constitution”; and

3 WHEREAS, Article 39 of the Declaration of Rights, which now requires that all oaths
4 and affirmations must confirm “the attestation of the Divine Being” is similarly
5 unconstitutional and inconsistent with current practices for administering oaths and
6 affirmations; now, therefore,

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 (Three-fifths of all the members elected to each of the two Houses concurring), That it be
9 proposed that the Maryland Constitution read as follows:

10 Declaration of Rights

11 Article 36.

12 [That as it is the duty of every man to worship God in such manner as he thinks
13 most acceptable to Him, all] **ALL** persons are equally entitled to protection in their religious
14 liberty; wherefore, no person ought by any law to be molested in [his] person or estate, on
15 account of [his] **THE** religious persuasion[,] or profession **OF THE PERSON**, or for [his]
16 **THE** religious practice **OF THE PERSON**, unless, under the color of religion, [he] **THE**
17 **PERSON** shall disturb the good order, peace or safety of the State, or [shall infringe the
18 laws of morality, or] injure others in their natural, civil or religious rights; nor ought any
19 person to be compelled to frequent, or maintain, or contribute, unless on contract, to
20 maintain, any place of worship, or any ministry; nor shall any person, otherwise competent,
21 be deemed incompetent as a witness, or juror, on account of [his] **THE** religious belief[,
22 provided, he believes in the existence of God, and that under His dispensation such person
23 will be held morally accountable for his acts, and be rewarded or punished therefor either
24 in this world or in the world to come] **OF THE PERSON**.

25 [Nothing shall prohibit or require the making reference to belief in, reliance upon,
26 or invoking the aid of God or a Supreme Being in any governmental or public document,
27 proceeding, activity, ceremony, school, institution, or place.]

28 Nothing in this article shall constitute an establishment of religion.

29 Article 37.

30 That no religious test ought ever to be required as a qualification for any office of
31 profit or trust in this State[, other than a declaration of belief in the existence of God]; nor
32 shall the Legislature prescribe any other oath of office than the oath prescribed by this
33 Constitution.

34 [Article 39.

35 That the manner of administering an oath or affirmation to any person, ought to be

1 such as those of the religious persuasion, profession, or denomination, of which he is a
2 member, generally esteem the most effectual confirmation by the attestation of the Divine
3 Being.]

4 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
5 determines that the amendment to the Maryland Constitution proposed by Section 1 of this
6 Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
7 Constitution concerning local approval of constitutional amendments do not apply.

8 SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the
9 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified
10 voters of the State at the next general election to be held in November 2024 for adoption or
11 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
12 the vote on the proposed amendment to the Constitution shall be by ballot, and on each
13 ballot there shall be printed the words “For the Constitutional Amendment” and “Against
14 the Constitutional Amendment”, as now provided by law. Immediately after the election,
15 all returns shall be made to the Governor of the vote for and against the proposed
16 amendment, as directed by Article XIV of the Maryland Constitution, and further
17 proceedings had in accordance with Article XIV.