



## MARYLAND LEGISLATIVE LATINO CAUCUS

Lowe House Office Building, 6 Bladen Street, Room 200 · Annapolis, Maryland 21401  
Phone 410-841-3374 | 301-858-3374 · 800-492-7122 Ext. 3374 · Fax 410-841-3342 | 301-858-3342  
latino.caucus@house.state.md.us · www.mdlatinocaucus.org

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TO: William C. Smith Jr, Chair  
Jeff Waldstreicher, Vice Chair  
Judicial Proceedings Committee Members  
FROM: Maryland Legislative Latino Caucus  
DATE: March 4, 2024  
RE: SB662 Criminal Procedure - Evidence - Protecting the  
Admissibility of Creative Expression (PACE Act)

### **The MLLC supports SB662 Criminal Procedure - Evidence - Protecting the Admissibility of Creative Expression (PACE Act), 2024**

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of SB662.

Oftentime, the mere association with genres like hip-hop and rap “leads to heightened scrutiny in the courtroom and is used to presume guilt, immorality, and propensity for criminal activity.”<sup>1</sup> Certain forms of expression, like rap music specifically, are repeatedly used against artists in criminal trials.<sup>2</sup> This admission in courts is disproportionate as rap is an art form practiced primarily by people of color whose communities are overpoliced, over-criminalized, and over-incarcerated.<sup>3</sup> Given this context, creative expression from communities of color is sometimes used to demonstrate frustration with abusive policing, and was particularly used in the 1970s and 80s as a response to the War on Drugs.<sup>4</sup> Forms of art that have its roots in protest are historically associated with Black people and people of color and are more likely to be prosecuted based solely on creative expression.<sup>5</sup>

SB662 intends to establish that, in any criminal or juvenile proceeding, the creative expression of a defendant or respondent is not admissible against the defendant or respondent unless the court find, by clear and convincing evidence, that: the defendant or respondent intended the creative expression to be literal, rather than figurative or fictional or if the creative expression is derivative, the defendant intended to adopt the literal meaning of the creative expression as their own; there is a strong indication that the creative expression refers to the specific facts of the alleged offense; the creative expression is relevant to a disputed issue of fact; and the creative expression has probative value that cannot be provided by other admissible evidence. “Creative expression” means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols.

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<sup>1</sup> [The Hill](#)

<sup>2</sup> [ABA](#)

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

SB662 will establish that the creative expression of a criminal defendant or juvenile respondent is not admissible against the defendant or respondent unless the court makes certain findings. Creative expression includes: music, dance, performance art, visual art, poetry, literature, film, and other similar objects or media.

For these reasons, the Maryland Legislative Latino Caucus respectfully requests a favorable report on SB662.