



OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

February 11, 2026

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

**RE: SB475 Support with Amendments**

Dear Chairman Smith, Vice Chairman Waldstreicher, and members of the Judicial Proceedings Committee:

Thank you for the opportunity to provide testimony in support of **Senate Bill 475**, the ***Protecting Artists' Creative Expression (PACE) Act***. I respectfully urge the Committee to issue a **favorable report with amendments**.

SB475 takes an important and overdue step toward ensuring that creative expression music, poetry, visual art, performance, and other protected forms of artistic speech is not misused in criminal or juvenile proceedings. The bill recognizes a basic truth: art is often metaphorical, fictional, aspirational, or expressive of emotion, not a literal confession of conduct or intent.

**Why SB 475 Matters**

Across the country and here in Maryland, courts have increasingly allowed creative works particularly music and poetry to be introduced as evidence against defendants, often without sufficient context or safeguards. Any evidence used to prove or disprove any essential fact in a criminal trial must be evaluated for relevance. Permitting courts to admit creative work with dubious relevance to any particular fact is tantamount to allowing a creative work to become character evidence; thereby risking transforming artistic expression into a proxy for character evidence, reinforcing harmful stereotypes and free expression, especially for young people and artists of color.

SB475 establishes a reasonable and balanced evidentiary standard. Under the bill, creative expression may only be admitted if the court finds, by a preponderance of the evidence, that:



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1. The defendant intended the expression to be literal rather than fictional or figurative (or intended to adopt a derivative work's literal meaning as their own);
2. The expression refers to the specific facts of the alleged offense; and
3. The expression is relevant to a disputed issue of fact.

This framework does not create a blanket ban. Instead, it ensures that creative works are treated with the same care and scrutiny as other potentially prejudicial evidence.

### **Support for the Juvenile Exception**

The provision allowing creative expression to be used in juvenile cases for purposes such as mental health evaluation, services, or diversion is particularly important. It preserves the rehabilitative goals of the juvenile justice system while preventing punitive misuse of art against young people.

### **Recommended Amendment: Explicit Probative vs. Prejudicial Analysis**

While we strongly support SB475, we recommend a clarifying amendment to strengthen the bill's protections and guide courts in its application.

Specifically, we urge the Committee to amend the bill to **explicitly require the court to conduct and articulate an analysis weighing the probative value of the creative expression against its prejudicial effect as an initial step in the admissibility determination.**

In plain terms, this amendment would ensure that before creative expression is admitted into evidence, the court must first consider whether the evidence is genuinely useful in proving a disputed fact and whether that usefulness is outweighed by the risk of unfair prejudice, bias, or misunderstanding by a jury.

This is a familiar and well-established principle in evidentiary law, but stating it clearly in the statute will:

- Provide meaningful guidance to judges,
- Promote consistent application across courts, and
- Reinforce the bill's core purpose of preventing artistic expression from being used to inflame or mislead rather than to inform.



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**Conclusion**

SB475 reflects Maryland's commitment to fairness, free expression, and due process. With the recommended amendment, the bill will strike the right balance protecting constitutional and creative freedoms while preserving the ability of courts to admit truly relevant evidence when appropriate.

For these reasons, I respectfully request a **favorable report with amendments** on SB475.

Sincerely,

*Ivan J. Bates*

Ivan J. Bates

Baltimore City State's Attorney