

CURRENT MARYLAND LAW 2026	State v. Montague 471 Md 467 (2000) <b>RULING:</b>	SB 0475-Protecting Artist's Creative Expression (PACE Act)	IMPACT OF PROPOSED CHANGE
Admissibility Standards are governed by Md. Rule 5-401, 5-402, 5-403 on <b>Relevancy</b>  These rules define what relevant evidence is and when it can and cannot be used at trial	Md. Rule 5-403 <b>Probative Value</b> of evidence is <b>not substantially outweighed by its prejudicial effect</b>  <b>This is the standard for all evidence to come in at criminal trials. Judge must weigh the evidence in advance.</b>	Court must find by a preponderance of the evidence the expression was: (1) literal not figurative And if it's derivative expression, that the defendant intended to adopt the literal expression as their own	Would require a NEW standard of admissibility which does not exist with any other evidence <b>"Preponderance of the evidence."</b> <sup>1</sup>  Requires judge to invade the province of the jury-what was the intent/mindset of Defendant?
Relevancy Standard of Proposed Evidence to Crime	Must be a strong nexus between the specific details of the artistic composition & circumstances of offense	(2)Refers to the specific facts of the alleged offense and (3)is relevant to a disputed issue of fact	(3) already exists in the law as required (4) creates a loophole Defendant could stipulate to facts to avoid its admission
Appellate Court can review the trial court's admissibility of rap lyrics as evidence	Two step appellate review: 1.Is evidence (de novo) 2. Did the trial court abuse its discretion in admitting evidence?		
When not admissible -just expressing general violence or glorifying violence -not tied to crime/facts of crime	Can't use to show propensity to commit crime, bad acts, can't be used to show the disposition of the person or bad person		
When should court exclude lyrics?	Works of fiction, expression, no nexus		

<sup>1</sup> Before allowing other crimes, bad acts, sexually assaultive evidence, the State must prove to a judge that those things actually occurred by clear and convincing evidence presented at a separate hearing. There is no other evidentiary requirement that a judge must use any standard other than Md Rule 5-403 relevancy in admitting evidence. "Preponderance of the evidence" is creating a new standard for artistic expression where no other evidence has such a requirement. This standard is usually a threshold standard