

**FINAL Testimony for SB 475 Sydnor.pdf**

Uploaded by: Charles Sydnor III

Position: FAV

CHARLES E. SYDNOR III, ESQ.  
Legislative District 44  
Baltimore County

DEPUTY MAJORITY WHIP

Judicial Proceedings Committee

Executive Nominations Committee

Legislative Policy Committee

*Joint Committees*

Administrative, Executive, and  
Legislative Review

Children, Youth, and Families

Senate Chair, Legislative Ethics



James Senate Office Building  
11 Bladen Street, Room 216  
Annapolis, Maryland 21401  
410-841-3612  
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Charles.Sydnor@senate.maryland.gov

THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony for SB 475  
Criminal Procedure – Evidence – Protecting Artists’ Creative Expression (PACE Act)  
Before the: Judicial Proceedings Committee  
February 11, 2026**

Good afternoon Chair Smith, members of the committee.

Maryland has a deep tradition of artistic and musical creativity. From Baltimore’s influential hip-hop scene to the many generations of poets, writers, and visual artists found throughout the state, Maryland has continually fostered vibrant creative expression.

Across the United States, creative works such as music lyrics, poetry, written narratives, visual art, and other forms of artistic expression have increasingly been introduced improperly as evidence in criminal proceedings. Research by University of Richmond professor Erik Nielson found that rap lyrics alone were used as evidence in approximately 500 criminal cases between 2009 and 2019, revealing a broader pattern in which artistic works are taken out of their creative context and presented to juries as factual admissions of guilt.<sup>1</sup> While rap lyrics are the most frequently cited examples, this practice extends across many forms of creative expression that are often fictional, metaphorical, or expressive rather than literal.

As evident in two recent cases, Maryland is very much a part of this trend. In *Montague v. State*, the Maryland Supreme Court upheld the admission of a defendant’s rap lyrics in a murder trial after concluding that the lyrics bore “a close nexus to the details of an alleged crime” and that “the probative value of the lyrics was not outweighed by the danger of unfair prejudice”.<sup>2</sup>

In *Hannah v. State*, the court found that a prosecutor had improperly cross-examined a defendant about rap lyrics he had written two years prior, because it was only done for the purpose of establishing the defendant’s propensity for violence and thus unfairly prejudicial, entitling him to

<sup>1</sup> <https://files01.core.ac.uk/download/pdf/346447748.pdf>

<sup>2</sup> <https://www.mdcourts.gov/data/opinions/coa/2020/75a19.pdf>

a new trial.<sup>3</sup> The court also acknowledged that “there are certain circumstances where the lyrics possess an inherent and overriding probative purpose. One circumstance would be where the lyrics constitute an admission of guilt... others would include rebutting an offered defense and impeachment testimony.”

These cases demonstrate a clear tension in Maryland law: although courts recognize the prejudicial nature of creative expression, judges are left to apply general evidentiary rules that were never designed to address the unique nature of artistic works and the always changing forms and language found in the arts.

This legislation is strong effort to codify the common law test laid out by the Maryland Supreme Court in these two court cases, addressing this gap by establishing clear, reasonable guardrails for when creative expression may be admitted as evidence in criminal and juvenile proceedings.

Under this bill, a defendant’s artistic work may only be admitted if the court determines that:

- The defendant intended the creative work to be taken literally rather than as figurative or fictional expression;
- There is a strong and specific connection between the creative work and the alleged offense; and
- The creative work is directly relevant to a disputed issue of fact.

Importantly, this bill does not impose a blanket ban on the use of creative expression in court. Instead, it ensures that artistic works are admitted only when they genuinely serve the interests of justice and are not used to inflame jurors or reinforce harmful stereotypes. Without these protections, we risk criminalizing creativity and disproportionately impacting communities of color, whose artistic traditions, particularly in hip-hop, are more frequently scrutinized, criminalized, and misunderstood.

The music industry, civil liberties advocates, and arts organizations strongly support these protections, recognizing that this issue extends beyond individual defendants. At stake are fundamental principles of free expression, due process, and fairness in our criminal justice system.

This legislation affirms that Maryland values both public safety and constitutional rights. It ensures that our courts rely on evidence of conduct, not creative imagination, when determining guilt or innocence. By adopting the PACE Act, we provide our judiciary with clear standards, protect artistic freedom, and uphold the integrity of Maryland’s legal system.

For the aforementioned reasons, I urge this committee issue a favorable report.

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<sup>3</sup> <https://cases.justia.com/maryland/court-of-appeals/151a09.pdf?ts=1462361753>

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Baltimore County

DEPUTY MAJORITY WHIP

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**2026-02-11 SB 475 Office of Public Defender (FAV).**

Uploaded by: Hannibal Kemerer

Position: FAV



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**HANNIBAL KEMERER**  
CHIEF OF STAFF

**ELIZABETH HILLIARD**  
DIRECTOR OF GOVERNMENT RELATIONS

## POSITION ON PROPOSED LEGISLATION

TO: The Honorable William C. Smith, Chair, Judicial Proceedings Committee

BILL: SB 475 – Criminal Procedure – Evidence – Protecting the Admissibility of Creative Expression (PACE Act)

FROM: Hannibal Kemerer, Chief of Staff, Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 11, 2026

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The Maryland Office of the Public Defender (“OPD”) urges the Judicial Proceedings Committee to issue a favorable report on Senate Bill 475, Senator Sydnor’s legislation to limit the use of creative expression in adult criminal or juvenile proceedings except in limited circumstances. Under the bill, in order for the creative expression to be admissible, the trial court must find by “clear and convincing”<sup>1</sup> evidence that “(1)(i) the defendant or respondent intended the creative expression to be literal, rather than figurative or fictional; **or** (ii) if the creative expression is derivative, the defendant intended to adopt the literal meaning of the creative expression as their own; (2) the creative expression refers to the specific facts of the alleged offense; (3) the creative expression is relevant to a disputed issue of fact; **and** (4) the creative expression has probative value that cannot be provided by other admissible evidence.”<sup>2</sup>

We support SB 475 as a suitable and strong effort to codify the common law test laid out by the Maryland Court of Appeals in *Montague v. State of Maryland*<sup>3</sup> and *Hannah v. State of Maryland*,<sup>4</sup> two decisions evaluating the admissibility of rap lyrics in criminal cases. If enacted, the rule codified in SB 475 would protect our clients’ First Amendment rights to free expression, while also permitting prosecutors to admit the creative expression in a trial against the artist *if* there’s a strong *temporal* and *factual nexus* between the crime charged and the creative expression. It would not, however, permit the wholesale introduction of prejudicial and irrelevant creative

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<sup>1</sup> Such evidence is less than that required to prove a matter “beyond a reasonable doubt” but greater than a mere “preponderance of the evidence.” Maryland courts have determined that the “clear and convincing” standard of evidence is “necessary to preserve fundamental fairness in a variety of government-initiated proceedings that threaten the individual involved with ‘a significant deprivation of liberty’ or ‘stigma.’” *Coleman v. Anne Arundel County Police Dept.*, 369 Md. 108, 145 (quoting *Santosky v. Kramer*, 455 U.S. 745, 756-57 (1982)).

<sup>2</sup> See Proposed Section 10-926(b)(1), *et seq.*

<sup>3</sup> 471 Md. 657 (2020).

<sup>4</sup> 420 Md. 339 (2011).

expression that has nothing to do with the underlying crime alleged. That saving grace will serve to ensure that our clients are not improperly prejudiced in a proceeding against them by the introduction of creative expression consistent with their First Amendment rights. In short, SB 475 protects both due process and freedom of speech rights while also permitting the introduction of relevant evidence.

For these reasons, we urge the Judicial Proceedings Committee to favorably report SB 475.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Hannibal Kemerer, Chief of Staff, 6 St. Paul Street, Baltimore, MD 21202.

**SB 475\_FAV\_ACLUMD.pdf**

Uploaded by: Olivia Spaccasi

Position: FAV



## Testimony for the Senate Judicial Proceedings Committee

February 11th, 2026

### SB 475- Criminal Procedure - Evidence - Protecting the Admissibility of Creative Expression (PACE Act)

OLIVIA SPACCASI  
PUBLIC POLICY  
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EXECUTIVE DIRECTOR

ANDREW FREEMAN  
GENERAL COUNSEL

#### FAVORABLE

The ACLU of Maryland urges a favorable report on SB 475, which seeks to create needed guidelines on the admissibility of creative expression-based evidence in criminal proceedings. SB 475 reinforces the legal protections guaranteed to all Marylanders by the First Amendment.

One of the primary legal issues SB 475 addresses is the interpretation and relevance of creative expression, such as rap lyrics, in criminal proceedings. There is inherent ambiguity and subjectivity involved in interpreting artistic works, especially those rooted in cultural contexts such as rap music.<sup>1</sup> Without clear guidelines and criteria for assessing the intent and relevance of creative expression, there is a risk of misinterpretation and prejudice against defendants.

Another issue that SB 475 combats is the potential for creative expression to be misused as evidence of guilt or criminal behavior. Throughout the country, and more importantly the state of Maryland, rap lyrics have been introduced as evidence in criminal trials to portray defendants as violent or dangerous individuals, without proper consideration of the artistic nature of the expression or the context in which it was created.<sup>2</sup> SB 475 seeks to address this issue by requiring the court to make specific findings regarding the intent, relevance, and probative value of creative expression before admitting it as evidence. If there is no probative value to be gleaned from the creative expression with regard to the facts of the matter before the court, the evidence should not be admissible.

On First Amendment grounds, allowing instances of creative expression, such as rap lyrics, to be used against defendants in criminal

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<sup>1</sup>[https://www.americanbar.org/groups/communications\\_law/publications/communications\\_lawyer/2023-winter/lyrics-limine-rap-music-and-criminal-prosecutions/#52](https://www.americanbar.org/groups/communications_law/publications/communications_lawyer/2023-winter/lyrics-limine-rap-music-and-criminal-prosecutions/#52)

<sup>2</sup> *Id.*

proceedings could have a chilling effect on artistic expression, particularly within marginalized communities where rap music serves as a form of cultural expression and social commentary. The Maryland Court of Appeals has admitted as much with regard to rap lyrics and the “prejudicial effect that often accompanies their admission.”<sup>3</sup> SB 475 is needed in this state to ensure that the First Amendment right to creative expression is not infringed upon by our criminal justice system.

For these reasons, the ACLU of Maryland urges a favorable report on SB 475.

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LIBERTIES UNION  
FOUNDATION OF  
MARYLAND

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<sup>3</sup> *Hannah v. State*, 420 Md. at 339.

# **SB475**

Uploaded by: Todd Dupler

Position: FAV



February 10, 2026

**Support for HB. 687 (Amprey) / SB. 475 (Sydnor), the PACE Act**

**AN ACT to amend the criminal procedure law, in relation to rules of evidence concerning the admissibility of evidence of a defendant's creative expression.**

The Recording Academy ("Academy") is the leading organization representing thousands of individual music makers, including many artists, songwriters, and music producers in Maryland. Together, we whole-heartedly endorse and support **HB. 687 / SB. 475, the Protecting Admissibility of Creative Expression (PACE) Act** introduced by Delegate Marlon Amprey and Senator Charles Sydnor. The PACE Act will make Maryland a national leader in protecting artistic and creative expression, with only two other states passing similar legislation to date.

Maryland has long been a source of musical inspiration and creativity from the legendary jazz of Billie Holiday to today's hip hop stars like Cordae and Logic. As an industry, music contributes \$1.4 billion to the state's GDP and supports more than 20,000 jobs. However, as the industry continues to blossom, courtrooms in Maryland are threatening to stifle creativity and artistic expression. In recent years, musical works have been used as evidence in criminal proceedings in Maryland, with prosecutors often claiming that aggressive or violent lyrics are indicative of an accused artist's actual behavior.

The PACE Act is a fair solution that addresses this growing prosecutorial trend by ensuring that music, literature, film, and other works of creative expression remain properly protected by the First Amendment. Specifically, the bill establishes a presumption that a defendant's creative expression is inadmissible unless a court determines that it is relevant and meets defined evidentiary standards. To overcome this presumption, a prosecutor must demonstrate that:

1. The defendant or respondent intended the creative expression to be literal, rather than figurative or fictional.
2. If the creative expression is derivative, the defendant intended to adopt the literal meaning of the creative expression as their own.
3. The creative expression refers to the specific facts of the alleged offense.
4. The creative expression is relevant to a disputed issue of fact.

The PACE Act does not prohibit the use of relevant lyrics in a criminal trial. Instead, it implements reasonable safeguards to ensure that artists can express themselves freely, without fear that their work will be mischaracterized or used against them based on content, genre, or cultural bias. against their chosen art form.

To date, researchers and legal scholars have seen this practice apply, almost exclusively, to hip hop and rap. And while the legislation applies to any and every genre of music, one cannot ignore the detrimental impact the existing practice has had on Black and Brown artists practicing their craft. The imagery used in hip hop that reflects the real-world experiences of these artists have too often been used to bias juries in criminal proceedings. We know Johnny Cash did not shoot a man in Reno just to watch him die, but the same creative license is not afforded to hip hop artists.

The PACE Act (HB. 687 / SB. 475) represents a crucial step in protecting Maryland's creative community and ensuring that the arts can continue to thrive without undue interference from the justice system. The Recording Academy respectfully urges your support.

Respectfully,

A handwritten signature in black ink, appearing to read "T. Dupler", written over a light blue horizontal line.

Todd Dupler  
Chief Advocacy & Public Policy Officer  
Recording Academy

## **SB475**

Uploaded by: Ufuoma Agarin

Position: FAV



# LEGISLATIVE BLACK CAUCUS OF MARYLAND, INC.

The Maryland House of Delegates, 6 Bladen Street, Room 300, Annapolis, Maryland 21401  
410-841-3185 • 800-492-7122 Ext. 3185 • Black.Caucus@house.maryland.gov

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Delegate C.T. Wilson, District 28

Delegate Greg Wims, District 39

Delegate Caylin Young, District 45

Dear Chair and Members of the Committee,

**The Legislative Black Caucus of Maryland offers its strong and favorable support for House Bill 687 / Senate Bill 475 – Protecting the Admissibility of Creative Expression (PACE Act).** This bill establishes necessary safeguards against the misuse of creative works: such as rap lyrics, poetry, and other artistic expressions, in criminal and juvenile proceedings. It ensures that artistic expression cannot be unfairly weaponized against individuals in court unless stringent legal thresholds are met. By protecting creative works from being distorted or taken out of context, **HB 687 / Senate Bill 475** affirms the importance of artistic freedom while ensuring that prosecutions are based on concrete evidence rather than racial bias and cultural misinterpretations.

For Black Marylanders, this legislation is particularly crucial. Maryland, and Baltimore in particular, has a long-standing reputation for producing groundbreaking Black artists, poets, and musicians whose work has shaped national and global culture. However, in a legal system which disproportionately police and prosecute Black individuals, artistic expression, especially in rap music, has been wrongfully used as a means of criminalizing Black voices. **HB 687 / Senate Bill 475** ensures that Black creators can continue to engage in artistic expression without fear that their words will be misrepresented in a courtroom. Moreover, it protects young Black Marylanders by encouraging their participation in music, poetry, and the arts as positive outlets for creativity, economic opportunity, and personal expression, rather than allowing their words to be misconstrued as criminal intent.

**HB 687 / Senate Bill 475** also serves as a step toward addressing racial disparities in the criminal justice system by reducing the likelihood of racial profiling and cultural bias in legal proceedings. By affirming that art is not a crime, this bill safeguards Black artistic contributions and upholds principles of fairness and due process.

For these reasons, the Legislative Black Caucus of Maryland strongly supports **HB 687 / Senate Bill 475**.

Legislative Black Caucus of Maryland

# **Testimony in Support of SB475.pdf**

Uploaded by: Ivan Bates

Position: FWA



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

# **Chart of Law Pace.pdf**

Uploaded by: Anne Colt Leitess

Position: UNF

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

## **Letter to Committee 2.9.26.pdf**

Uploaded by: Anne Colt Leitess

Position: UNF

# OFFICE OF THE STATE'S ATTORNEY

ANNE COLT LEITESS  
State's Attorney



BRIAN A. MARSH  
JESSICA DAIGLE  
Deputy State's Attorneys

ANNE ARUNDEL COUNTY, MARYLAND

Date: February 9, 2026  
Bill Number: SB 475

Position: Unfavorable

Dear Honorable Committee Members:

The standards for admitting rap lyrics were discussed extensively in *Montague v. State* 244 Md. App 24 (2019) by the Court of Appeals and then further by the Supreme Court of Maryland in *State v. Montague* 471 Md 467 (2020). This is the current law in Maryland and is a well-reasoned and fair analysis regarding the introduction of evidence that a Defendant may want to characterize as artistic expression. The opinion balances the ability for an individual to express themselves about topics that may glorify violence and even urge others not to snitch about crime, but such expression will not be admitted against them unless the Trial Court makes a specific finding that there is a “strong nexus” to the expression and the specific details of the crime. In fact, the Supreme Court in *Montague* acknowledged that simply admitting rap lyrics at trial against an individual, without a strong nexus to the crime, could unfairly prejudice an individual and serve no other purpose than showing a person’s propensity for violence. Such evidence is expressly prohibited under those circumstances. Defendants continue to have the right to argue to the jury that the expression was not literal or had any connection to the crime. Ultimately, it is up to a jury to determine what, if any weight to give such evidence.

It is important to point out that of the 12 appellate justices who considered the *Montague* case, 11 agreed and 1 dissented in the case. The justice who dissented didn’t oppose the standard her colleagues applied which is the probative value vs. prejudicial effect of the evidence. Rather, she just came to a different conclusion on the facts in that particular criminal case. This is the exact analysis that a jury would go through during their deliberations-what weight they should give the evidence. The admissibility of rap lyrics must be viewed within the context of the requirements that all evidence must go through before it is presented to a jury. First, a judge decides whether the evidence is relevant at all, whether it is specifically connected to the crime and then finally, whether the impact of the evidence’s admission will not unfairly prejudice the defendant. Only then will the

jury have the chance to consider it. The two appellate courts discussed the parameters of relevancy in their opinions. For brevity, I summarize their discussion as follows:

Probative value is the tendency of evidence to prove a fact in dispute  
Relevant evidence is evidence that has “any tendency to make the existence of any fact more probable than less probable.” Citing Md. Rule 5-403, **the standard is that a trial court should exclude even relevant evidence “if its probative value is substantially outweighed by the danger of unfair prejudice”**

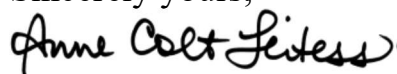
Evidence is unfairly prejudicial “when it tends to have some adverse effect beyond tending to prove the fact or issue that justified its admission.” When evidence is of “a highly incendiary nature,” its admissibility hinges on whether it “greatly aids the jury’s understanding of why the defendant was the person who committed the particular crime charged.” General relevancy issues are reviewed de novo (by the appellate court) and the probative vs. prejudicial determination falls within the discretion of the trial court.

The Supreme Court of Maryland carefully considered this evidence and held:

In sum, when a defendant's rap lyrics are offered as substantive evidence of their guilt, those lyrics should be analyzed on a case-by-case basis using the evidentiary rules that courts routinely use in determining the threshold admissibility of evidence. Although rap lyric evidence carries inherent prejudicial effect, the probative value of a defendant's rap lyrics shares an inverse relationship with unfair prejudice. The closer the nexus between a defendant's rap lyrics and the details of an alleged crime, the lower the danger of admitting the lyrics as unfairly prejudicial propensity evidence of the defendant's bad character.

I urge this committee not to advance the proposed legislation as it is unnecessary under the current legal standards, it seeks to add an additional standard to admitting artistic expression that no other evidence has in this state.

Sincerely yours,



Anne Colt Leitess

State’s Attorney for Anne Arundel County

**SB 475 - unfavorable - PACE.pdf**

Uploaded by: Kirsten Brown

Position: UNF

**Ivan Bates**  
President



**Kirsten N. Brown**  
Executive Director

Maryland State's Attorneys' Association  
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**Date:** February 9, 2026  
**Bill Number:** SB 475  
**Position:** Unfavorable

The Maryland State's Attorneys' Association (MSAA) opposes Senate Bill 475 and urges this Committee to issue an unfavorable report.

This bill risks making threats, intimidation, and witness tampering more difficult to admit when they are cloaked in so-called "creative expression" or metaphor. In effect, it raises the burden of proof on the State and creates a potential defense where none should exist. Threats do not become less threatening simply because they are stylized, indirect, or artistic.

The legislature's attempt to define "artist" and "creative expression" is particularly troubling. Those determinations are not legislative functions. They are evidentiary questions that trial judges already handle every day under the Maryland Rules of Evidence. Courts are well equipped to assess relevance, probative value, prejudice, and context without carving out special treatment for certain forms of speech.

This bill would also have serious consequences in domestic violence, stalking, and sexual exploitation cases. Under SB 475, an abuser's poems, lyrics, or metaphor-laden statements could receive special protection simply because the references are not explicit. That same concern applies to predatory conduct disguised as "creative expression." The implications extend far beyond the narrow group the bill appears designed to protect.

Practically, this legislation invites unnecessary and harmful pretrial litigation. Would courts be required to hold pretrial hearings to determine whether a defendant meant a statement literally or figuratively? Would victims and witnesses have to testify before trial about how they interpreted a defendant's "creative" statements—subjecting them to cross-examination and retraumatization before the jury is even empaneled?

If an abuser turns threatening text messages into a haiku or a rap verse, does that trigger a special evidentiary process? That result is not only unworkable, it undermines victim safety and the truth-seeking function of the trial.

The existing rules already strike the appropriate balance between free expression and admissible evidence. SB 475 is unnecessary, overbroad, and risks real harm to victims and witnesses while complicating prosecutions in cases where context and intent are critical.

MSAA urges this Committee to issue an unfavorable report.

# **SB 475 - PACE act opposition.pdf**

Uploaded by: Lindsey Carpenter

Position: UNF

J. CHARLES SMITH, III  
STATE'S ATTORNEY

JOYCE R. KING  
DEPUTY STATE'S ATTORNEY

RICKY W. LEWIS  
CHIEF COUNSEL



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JUVENILE DIVISION  
301-600-2980

DATE: February 11, 2026

BILL NUMBER: SB 475

POSITION: Unfavorable

Dear Chair Smith, Vice Chair Waldstreicher, Members of the Judicial Proceedings Committee:

I write to you on behalf of the Maryland State's Attorney's Association and the Frederick County State's Attorney's Office in strong opposition to SB 475.

While the intent behind SB 475 may be admirable, the consequences of such legislation to the prosecution of offenders who victimize the most vulnerable individuals in our community is significant. It appears as though the proposed legislation is attempting to codify the rulings already laid out by the Court of Special Appeals in *Montague v. State*, 244 Md. App. 24 (2019). In *Montague* the court addresses the application of Md. Rule 5-401 (relevancy) and Md. Rule 5-404(b) (other bad acts) specifically to the admissibility of rap lyrics in a criminal case against a defendant. However, SB 475 goes far beyond the holding in *Montague*. Rather, it makes the admissibility requirements more stringent than current rules of evidence and case law, and expands the holding in *Montague* to all "creative expression." The combination of these additions, naturally expands the types of cases that would be impacted by this proposed legislation.

Additionally, while SB 475 appears to attempt to limit the items that would fall under "creative expression" the reality is that the definitions included are not limiting. For example, the legislation indicates that it applies to items that are eligible for federal copyright protection. However when you look at 17 U.S.C. §102, copyright protection applies to "original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device." In effect, that includes any type of expression by an individual. With that understanding, I urge you to consider the following hypothetical scenarios which under current caselaw and statutory scheme the evidence would be admissible, but under the proposed legislation, the evidence would be inadmissible.

**Child Sexual Abuse**

Hypothetically, if an individual who is alleged to have sexually abused a child writes a note or journal entry or other literary piece insinuating to their bad conduct in general terms, or utilizing a figurative term to describe their conduct with no additional detailed facts, under this legislation that writing would not be admissible. Under the current case law and statutory scheme, the court would hold a hearing to determine whether such evidence provided relevancy to the charged acts, including a comparison between the date of the writing and the date of the offense. However, under the proposed legislation the court would not be

able to even consider such facts and would simply be unable to admit such evidence if it found it was in fact “creative expression” due to there not being reference to specific facts of the case. Therefore, a potentially crucial piece of evidence would become inadmissible under the proposed legislation.

### **Domestic Violence**

Hypothetically, if an individual who is alleged to have committed a crime against their intimate partner later writes the victim a poem, letter or song apologizing for hurting the victim, without mentioning any specifics regarding the facts of the offense, under the proposed legislation such writing would also be inadmissible. Furthermore, if the offender had a protective order against them, and they wrote a poem or song referring to the victim, and sent that poem or song to the victim, they could argue that the poem or song was “creative expression” and if it does not reference the existence of a protective order it may be inadmissible against the offender in a prosecution for Violation of Protective Order. Additionally, if an offender had prior writings that could potentially provide motive for an offense, if there was not a direct reference to the specific facts of the case, under the requirements of the proposed legislation, those writings would be inadmissible.

### **Sex Trafficking**

It is well known that there is an inherent connection between offenders who commit sex trafficking and their use of “creative expression” to perpetuate the crime and recruit additional victims. Hypothetically, if an individual were to post a photograph with a large amount of cash and have a song referencing “pimping” playing as background music it would be a derivative use of the creative expression. However, under the proposed legislation, such evidence would be inadmissible if it did not refer to a specific victim. Whereas, under the current statutory scheme and caselaw a court would weigh the relevancy of the evidence in terms of timing of the photograph related to the crime, location of the photograph related to location of the incident, and other factors.

These are just a few examples of hypothetical scenarios where under the current statutory scheme and caselaw, important pieces of evidence would be admissible, or at least subject to an admissibility hearing. However, under the proposed legislation, these pieces of evidence would become inadmissible. In my experience as a prosecutor and in speaking with other prosecutors throughout my office and the State of Maryland, criminal defendants frequently attempt to cloak their admissions as “creative expressions” through writings, poems, songs, etc. By issuing a favorable report on SB 475, we would be encouraging more offenders to do so, and significantly limiting important evidence in criminal prosecutions.

The current statutory scheme and case law already provides significant protections to defendants charged with criminal acts to ensure that propensity evidence is not utilized in a criminal case and to ensure that unfairly prejudicial evidence is not admitted against a criminal defendant. Impletmening this proposed legislation would have wide-spread consequences in the ability to effectively prosecute offenders who commit crimes against some of our most vulnerable victims.

For these reasons, the Maryland State’s Attorney’s Association and the Frederick County State’s Attorney’s Office request an unfavorable report on SB 475.



Lindsey M. Carpenter  
Chief, Special Victims Unit  
Frederick County State’s Attorney’s Office

# **SB0475\_HoCoState'sAtty\_Unfavorable\_Criminal Proced**

Uploaded by: Rich Gibson

Position: UNF



## SENATE BILL 0475

### Criminal Procedure - Evidence - Protecting Artists' Creative Expression (PACE Act)

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

**POSITION: UNFAVORABLE FOR SB 0475**

February 9, 2026

My name is Rich Gibson; I am the State's Attorney for Howard County and the immediate Past-President of the Maryland State's Attorneys' Association (hereinafter MSAA). I have been a prosecutor for twenty-one years and I am writing today on behalf of the overwhelming majority (there was only one vote in favor of this bill) of the MSAA membership to request an unfavorable report for Senate Bill 0475.

There is nothing unjust about holding individuals accountable for their criminal actions. Public safety is jeopardized when we impose artificial barriers that shield wrongdoers from the consequences of their choices. Senate Bill 0475 seeks to do just that, making it more difficult to use evidence created by an alleged perpetrator against them in court. This bill does not serve justice; rather, it obstructs the pursuit of truth and accountability.

Let me be clear: Prosecutors do not seek to stifle creative expression. Our sole aim is to ensure that those who violate the law are held responsible. Creativity is not a crime, but committing a crime is.

Maryland's Supreme Court has already addressed this issue in *Montague v. State*, establishing a fair and rigorous framework for determining when

creative expression, such as song lyrics, may be admissible in court. Under this ruling:

- Lyrics are admissible only if they have a direct and specific connection to an alleged crime, serving as proof of involvement rather than mere artistic expression.
- Even when that threshold is met, a judge must still determine that the probative value of the evidence outweighs any potential prejudice.
- If admitted, the jury—not the government—determines what weight, if any, to give that evidence.

This is not a theoretical issue. In Howard County, a defendant was charged with shooting at two people, killing one. While awaiting trial, he recorded a rap song describing the crime in detail, in stark contrast to his statements to police, in which he denied handling a firearm at all. The ability to present this self-created evidence in court helped us secure justice for the victim and the community.

What injustice does this bill seek to remedy? More importantly, what injustices will this bill create? Are we truly prepared to make it easier for violent offenders to evade responsibility simply because they choose to document their crimes through artistic mediums? Where is the evidence that Maryland has wrongfully convicted anyone based solely on their creative expression? There are no cases in Maryland where this issue was a basis for a case being overturned. This is a solution in search of a problem.

Worse yet, Senate Bill 0475 not only fails to address an actual issue, it actively creates new problems that threaten public safety. It would weaken prosecutors' ability to present relevant, self-incriminating evidence in cases where perpetrators voluntarily produce it. In doing so, it would tip the scales of justice in favor of those who harm others, rather than protecting victims and communities.

For these reasons, the Maryland State's Attorneys' Association strongly urges an unfavorable report for Senate Bill 0475.

**sb475.pdf**

Uploaded by: Will Vormelker

Position: UNF

HON. STACY A. MAYER  
CIRCUIT COURT  
JUDGE  
BALTIMORE COUNTY  
CHAIR

HON. RICHARD SANDY  
CIRCUIT COURT  
JUDGE  
FREDERICK COUNTY  
VICE-CHAIR



KELLEY O'CONNOR  
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## MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

### MEMORANDUM

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 475  
Criminal Procedure – Evidence – Protecting Artists’ Creative  
Expression (PACE Act)  
**DATE:** February 4, 2026  
(2/11)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 475. This bill would provide that in any criminal proceeding or juvenile proceeding, the “creative expression” of a defendant or respondent is not admissible against the defendant/respondent unless the court finds, by clear and convincing evidence, certain things.

The Judiciary recognizes the bill’s attempt to respond legislatively to the Supreme Court of Maryland’s decision in *Montague v. State*, 471 Md. 657 (2019), and takes no position on the stated intent to protect the admissibility of creative expression. That policy prerogative is appropriately reserved for the legislature. The Judiciary would note that the bill appears to cover all expression that is not literal, which could include common use of analogies and metaphors, and preclude all manner of statement from admission – more than songs, poems, and artistic expression. A litigant may raise the issue of admissibility of any analogy or metaphor thereby requiring an additional evidentiary hearing, which would delay trials on their merits.

cc. Hon. Charles Sydnor, III  
Judicial Council

Legislative Committee  
Kelley O'Connor