

HOUSE BILL 940

E2

3lr2574

By: **Delegate Amprey**

Introduced and read first time: February 10, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Evidence – Admissibility of Creative Expression**

3 FOR the purpose of providing that the creative expression of a criminal defendant or
4 juvenile respondent is not admissible against the defendant or respondent unless the
5 court makes certain findings; and generally relating to the admissibility of creative
6 expression in criminal or juvenile proceedings.

7 BY adding to

8 Article – Courts and Judicial Proceedings

9 Section 10–925

10 Annotated Code of Maryland

11 (2020 Replacement Volume and 2022 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Courts and Judicial Proceedings**

15 **10–925.**

16 (A) IN THIS SECTION, “CREATIVE EXPRESSION” MEANS THE EXPRESSION OR
17 APPLICATION OF CREATIVITY OR IMAGINATION IN THE PRODUCTION OR
18 ARRANGEMENT OF FORMS, SOUNDS, WORDS, MOVEMENTS, OR SYMBOLS.

19 (B) IN ANY CRIMINAL PROCEEDING OR JUVENILE PROCEEDING, THE
20 CREATIVE EXPRESSION OF A DEFENDANT OR RESPONDENT IS NOT ADMISSIBLE
21 AGAINST THE DEFENDANT OR RESPONDENT UNLESS THE COURT FINDS, BY CLEAR
22 AND CONVINCING EVIDENCE, THAT:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(1) (I) THE DEFENDANT OR RESPONDENT INTENDED THE**
2 **CREATIVE EXPRESSION TO BE LITERAL, RATHER THAN FIGURATIVE OR FICTIONAL;**
3 **OR**

4 **(II) IF THE CREATIVE EXPRESSION IS DERIVATIVE, THE**
5 **DEFENDANT INTENDED TO ADOPT THE LITERAL MEANING OF THE CREATIVE**
6 **EXPRESSION AS THEIR OWN;**

7 **(2) THERE IS A STRONG INDICATION THAT THE CREATIVE**
8 **EXPRESSION REFERS TO THE SPECIFIC FACTS OF THE ALLEGED OFFENSE;**

9 **(3) THE CREATIVE EXPRESSION IS RELEVANT TO A DISPUTED ISSUE**
10 **OF FACT; AND**

11 **(4) THE CREATIVE EXPRESSION HAS PROBATIVE VALUE THAT**
12 **CANNOT BE PROVIDED BY OTHER ADMISSIBLE EVIDENCE.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2023.