

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1346
Judiciary

(Delegate Amprey, *et al.*)

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

This bill prohibits the “creative expression” of a defendant or respondent from being admitted against the defendant or respondent in a criminal or juvenile proceeding unless the court makes specified findings. The bill does not preclude the admission of creative expression in juvenile cases for the purposes of evaluating, recommending, or ordering referral to mental health services or diversion programs.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: 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 finds, 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;
- 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. “Creative expression” includes music, dance, performance art, visual art, poetry, literature, and film.

Current Law: The Maryland Rules of Evidence generally follow the Federal Rules of Evidence. Except as otherwise specified, all relevant evidence is admissible. Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. Although relevant, evidence may be excluded under Maryland Rule 5-403 if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Generally, evidence of a person’s character or character trait is not admissible to prove that a person acted in accordance with the character trait on a particular occasion.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1429 and SB 662 of 2024 and HB 940 of 2023.

Designated Cross File: SB 1001 (Senator Mautz) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2025
km/jkb

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