

MARLON AMPREY
Legislative District 40
Baltimore City

DEPUTY MAJORITY WHIP

Economic Matters Committee



The Maryland House of Delegates
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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 28, 2023

**Testimony of Delegate Marlon Amprey in support of HB 940 Criminal Procedure – Evidence –
Admissibility of Creative Expression**

Dear Members of the Judiciary Committee,

Maryland has always been a place where music and creativity has flourished. Maryland should be a place where freedom of creative expression is protected, allowing our various forms of art to continue to thrive. Creative expression is currently threatened by the risk of it being used against the artist in a criminal proceeding. Specifically, rap lyrics have been increasingly used by prosecutors in criminal trials, often taken out of context, purported as a literal meaning, and in some cases even distorted or spliced.

Research by Professor Erik Nielson shows that rap lyrics have been used in roughly 500 cases between 2009 and 2019. While this is a nation-wide issue, it affects Maryland to a great degree, as Maryland is home to many successful rappers and many more who simply use rap as a form of creative expression. Although rap music may express instances of violence or crimes, we must not forget that it provides a creative outlet and a method for many to bring their harrowing life experiences to light. House Bill 940 seeks to limit the admissibility of rap lyrics as evidence by providing that in any criminal proceeding or juvenile proceeding, the creative expression of a defendant or respondent cannot be used against them unless the court finds that: (1) the defendant intended the creative expression to be literal, rather than figurative or fictional; (2) there is a strong indication that 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.

Therefore, HB 940 will not eliminate all circumstances where creative expression can be used in criminal proceedings, however it will establish a reasonable threshold for prosecutors to meet in order to do so. The music industry has been advocating strongly for such legislation as it recognizes the value in freedom of expression. I believe that we as legislators who represent numerous musical artists should also recognize the value of creative expressions and protect it. House Bill 940 is an important step in protecting creative expression and our state-wide contributions to the music industry.

For these reasons, I urge a favorable report on House Bill 940.

Respectfully,

A handwritten signature in black ink, appearing to read "Marlon Amprey".

Delegate Marlon Amprey
40th Legislative District of Maryland