

MARLON AMPREY
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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

Tuesday, March 5, 2024

**Testimony of Delegate Marlon Amprey in Support of HB 1429 Criminal Procedure
– Evidence – Admissibility of Creative Expression**

Dear Chair Clippinger, Vice Chair Bartlett, and Members of the House Judiciary Committee,

Maryland encapsulates many institutions and freedoms that permit the arts and creativity to flourish. Our state should be a place where these freedoms and creative expressions are protected, allowing our various art forms to continue thriving. Creative expression in Maryland is threatened by the risk of being wrongfully used against artists in criminal proceedings. Specifically, prosecutors have increasingly used creative expressions like rap lyrics in criminal trials across the country. Often, the creative expression is taken out of context, purported as a literal meaning, and in some cases even distorted or spliced. House Bill 1429 provides the necessary thresholds a court must reach before admitting creative expression into a criminal proceeding and gives Maryland the opportunity to be a leader in the

House Bill 1429 seeks to limit the admissibility of creative expression 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 **or** if the creative expression is derivative, the defendant intended to adopt the literal meaning of the creative expression as their own;
- 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.

House Bill 1429 will not eliminate all circumstances where creative expression can be admitted into criminal proceedings. However, it will establish a reasonable threshold for the State to meet before doing so. The music industry has been advocating strongly for such legislation as it recognizes the value of freedom of expression. As legislators representing numerous artists, we should also recognize and

protect the value of creative expression. California and Louisiana passed similar legislation into law, and states like New York, Georgia, and Missouri have introduced and passed protections for creative expression into their legislatures. Maryland has the opportunity to blaze the trail for more states to protect the freedom of creative expression. House Bill 1429 is an essential step in protecting creative expression and our expanding state-wide contributions to the music industry.

For these reasons, I urge a favorable report on House Bill 1429.

Respectfully,

A handwritten signature in black ink, appearing to read "Marlon Amprey". The signature is written in a cursive style with a large initial "M" and a distinct "A".

Delegate Marlon Amprey
40th Legislative District of Maryland