



## SENATE BILL 1001

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

**POSITION: UNFAVORABLE FOR SB 1001**

March 7, 2025

My name is Rich Gibson, I am the State's Attorney for Howard County and the President of the Maryland State's Attorneys' Association (hereinafter MSAA). I have been a prosecutor for twenty years and I am writing today to request an unfavorable report for Senate Bill 1001.

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 1001 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? **This is a solution in search of a problem.**

Worse yet, Senate Bill 1001 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 1001.**