

Bill Number: SB 1001

Scott D. Shellenberger, State's Attorney for Baltimore County

Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION OF SENATE BILL 662
CRIMINAL PROCEDURE – EVIDENCE – PROTECTING THE ADMISSIBILITY OF
CREATIVE EXPRESSION

I write in opposition to Senate Bill 1001 that limits the admissibility of creative expression evidence. In today's world of prosecution of criminal cases the use of social media is very prevalent whether it is Facebook, Snapchat, Instagram, etc.

Detectives and prosecutors are constantly scanning these sites for evidence to support the identity of a criminal and possible intents behind their actions. For instance the news is filled with judicial rulings on the admissibility of lyrics to help prove a criminal case.

Senate Bill 1001 is unnecessary. In order to be admissible a defense attorney can object and a judge must rule that the item is relevant and linked to an issue in the case.

Maryland Courts have begun to address the standards necessary to authenticate social media evidence. In *Griffin v State*, 419 MD 343.(2011) the Court of Appeals emphasized the need to prove evidence was not done by others. In *Sublet v State*, 442 MD 632(2015) the court used the reasonable Juror Standard to determine admissibility.

To the defendant on trial, these judicial standards have stood the test of time concerning admissibility and will continue to do so even as new forms of expression emerge.

I urge an unfavorable report.