



February 13, 2026

Dear Members of the Maryland House of Delegates Judiciary Committee,

Free Our Art urges you to vote in favor of the PACE Act (HB687/SB475), legislation that will protect artistic freedom and prevent the unjust criminalization of creative expression in Maryland.

Across the country, we are witnessing a dangerous pattern: prosecutors are extracting creative expression – most often, song lyrics – from their creative context and presenting them as confessions or evidence of criminal intent. This practice not only violates First Amendment principles but also reflects deep cultural bias in how different art forms – particularly hip-hop and rap – are treated in our courtrooms.

The numbers tell a stark story. Researchers have documented nearly 820 cases nationwide where creative work has been used as evidence, with over 120 cases emerging in just the past two years. Arizona State School of Law's analysis of more than 160 such cases revealed that judges consistently fail to serve as proper gatekeepers, allowing artistic expression to be weaponized in ways that would never be permitted for other forms of protected speech.

Maryland is not immune to this problem. The reversal in *Hannah vs. Maryland* (2011) demonstrated that our state's courts have struggled with these issues before. More recently, we've seen reversals and vacated convictions in Georgia, Texas, Tennessee, and New York all within the last two years due to the improper use of creative expression as evidence. This is joined by strongly worded admonishments against improper use of lyrics by federal appeals courts in New York and Arizona. Even abroad, the House of Lords in the United Kingdom held a hearing on February 11 with legislation supported by both sides of the aisle to protect creative expression, and that bill is now moving to the House of Commons. Around America and the world, there is growing consensus that this obvious misuse of prosecutorial discretion and failure of required gatekeeping by the judiciary due to cultural misunderstanding is generating a critical mass of support from all walks of life.

The PACE Act offers a solution grounded in Maryland's own legal precedent. By codifying the Supreme Court's decision in *Montague vs. Maryland* (2020), this bill creates a clear, balanced framework that judges can apply uniformly. The three-part test it establishes has been carefully

refined through four years of negotiations with both House and Senate committees, incorporating thoughtful feedback to ensure it protects constitutional rights while serving justice.

What makes this legislation essential is its commitment to treating all art forms equally. When judges lack consistent standards, they fall back on subjective judgments influenced by their own cultural perspectives. An artist shouldn't face different treatment in court based on whether they write country songs, punk rock, or rap verses. The PACE Act ensures that every form of creative expression receives the same rigorous First Amendment scrutiny.

This bill has earned bipartisan support because it addresses a fundamental question of fairness. Should artists face the choice between self-censorship and potential prosecution? Should creative communities—especially those already marginalized—live under the shadow of having their art turned against them?

Maryland has the opportunity to lead on this issue and send a clear message: artistic expression deserves protection, and our justice system must operate without cultural bias. We strongly encourage you to support HB687/SB475.

Thank you for standing with artists and defending creative freedom.

Sincerely,

Phil Walotsky
Executive Director
Free Our Art