



HOUSE BILL 0687

Criminal Procedure - Evidence - Protecting Artists' Creative Expression (PACE Act)

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POSITION: UNFAVORABLE FOR HB 0687

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My name is Rich Gibson; I am the State's Attorney for Howard County and the immediate Past-President of the Maryland State's Attorneys' Association (hereinafter MSA). I have been a prosecutor for twenty-one years and I am writing today on behalf of the overwhelming majority (there was only one vote in favor of this bill) of the MSA membership to request an unfavorable report for House Bill 0687.

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. House Bill 0687 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? There are no cases in Maryland where this issue was a basis for a case being overturned. This is a solution in search of a problem.

Worse yet, House Bill 0687 not only fails to address an actual issue, but it also 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 House Bill 0687.**