

# **2026\_MdVLA\_House Judiciary Committee Testimony for**

Uploaded by: Adam Holofcener

Position: FAV

Chair Bartlett and Honorable Members of the Judiciary Committee, my name is Adam Holofcener, and I am the Executive Director of Maryland Volunteer Lawyers for the Arts, a non-profit legal services organization that provides access to pro bono attorney services and education to Maryland creatives. I testify here today in support of HB 687, the Protecting Artists' Creative Expression Act. I have had the fortune of practicing law and advocating on behalf of artist clients for over the past decade. While I primarily work with artists on their corporate and intellectual property issues, I have also participated in litigation related to criminal law and the arts. For example, I was co-counsel in *Soderberg v. Carrion*, in which we successfully argued that Maryland Criminal Procedure § 1-201 unconstitutionally limited the rights of all Marylanders, including my documentary filmmaker clients, from rebroadcasting the state-created recordings from trial court criminal proceedings. Additionally, I have been teaching on issues related to hip-hop lyrics and evidence in my Art and Media Law course at the University of Maryland School of Law for several years.

I say this to say that I understand what it means to balance the interests of Maryland artists and their art with the objectives of the criminal justice system. In this particular instance, the PACE Act is required in order to more fairly re-balance the interests at play in this context. While we believe it is important that the PACE Act covers all modes of creative expression, we acknowledge the specific context animating this legislation: hip-hop and rap lyrics being disproportionately and improperly used against Black defendants. The legal and social science work done in this area by individuals like Andrea Dennis, Erik Nielson, Jack Lerner, Charis Kubrin, as well as countless others, has made plain the need for sound and measured legislative re-correction in this area. To be clear, this is not about tipping the scale in favor of artists so that they may use their creative expression to subvert the tenets of criminal law. It is about creating

balance so that our most creative and vulnerable do not fall victim to an unjust and racist application of evidence law.

I have seen such victims in my own practice. Shortly after I moved back to my hometown of Baltimore in 2014 to begin work at Maryland Volunteer Lawyers for the Arts, a journalist friend alerted me to a story of then up-and-coming local rapper Young Moose, AKA Kevron Evans, that squarely intersected art and the law. Law enforcement officers used the literal content of Moose's songs and music videos as evidence to seek a warrant against Moose. By doing so, Moose ended up entangled in the criminal justice system, missing out on his opportunity to take advantage of the viral success he had recently obtained.

Through his art, Young Moose told the stories of his neighborhood. He raps the gestalt of East Baltimore, and the combination of his words and delivery resonated throughout the city. As is unsurprising, the experience of Moose and his community members, those victims of white supremacy, redlining, mass incarceration, police brutality, and so much more, reasonably led Moose to feature standard tropes of the streets in his songs and music videos: drugs, guns, and pain. But, a troubadour like Moose does more than just play acting reality; he also tells the news. Moose would alert his fellow community members to the actions of certain corrupt police officers, like Detective Daniel Hersl, who brutalized Moose and his fellow East Baltimoreans.

That same Detective Daniel Hersl was one of the officers who used Moose's art against him in criminal proceedings, ruining Moose's life and career. That same Daniel Hersl that Moose name-checked as a crooked cop in 2014 ended up being the same Daniel Hersl, a member of the notorious Gun Trace Task Force. There is a deep and tragic irony here that the only parts of Moose's music that should have been taken literally, those describing the illegal actions of Daniel Hersl, were notably the only parts of Moose's work that weren't considered at all.

But, Moose's case is apt for more than just demonstrating how unscrupulous law enforcement officers and prosecutors maliciously promote unsubstantiated evidence against defendants. This case also gives us an opportunity to truly understand the scope of the PACE Act.

Detective Daniel Hersl did not have evidence to show that Moose intended for the generalized tropes in his artwork to be taken literally. Therefore, under the PACE Act, those aspects of Moose's work should be inadmissible. To draw an analogy from copyright law, if a storyteller from East Baltimore is trying to conjure a scene of the grittier aspects of their community then certain generalized tropes, or scenes a faire, are *required* to set the scene; therefore, one cannot claim either protection or infringement of said scene setting tropes. Similarly, such scenes a faire would not be eligible for admissibility under the PACE Act, given their generalized character. However, if a work includes such specificity as to transcend mere scenes a faire, giving such details that take you from a generalized tableaux into a real encounter, one with names, dates, locations, descriptions, etc., then not only would copyright take hold, but so would admissibility of a creative work under the PACE Act.

To be clear, I do not believe that the PACE Act takes a tool out of the prosecutor's toolbox. The PACE Act merely requires that evidence in the form of a creative expression, the work of our troubadours and storytellers, work that both empirically and colloquially is known to not be taken as mere autobiography, must be truly probative in order to be admissible. We know that prosecutors work toward just results, not those sought by members of the Gun Trace Task Force; therefore, we believe that the measured language of the PACE Act adequately rebalances those interests between artists and law enforcement. And so, I respectfully request that the committee vote favorably on HB 687.

## **Late testimony**

Uploaded by: Ashanti Martinez

Position: FAV



## MARYLAND LEGISLATIVE LATINO CAUCUS

Lowe House Office Building, 6 Bladen Street, Room 200 · Annapolis, Maryland 21401  
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GABRIEL ACEVERO, VICE-CHAIR  
DENI TAVERAS, TREASURER  
JOE VOGEL, SECRETARY  
JASON A. AVILA GARCIA, EXECUTIVE DIRECTOR

TO: Delegate J. Sandy Bartlett, Chair  
Delegate Debra Davis, Vice Chair  
Judiciary Committee Members  
FROM: Maryland Legislative Latino Caucus  
DATE: 2/17/2026  
RE: HB0687 - Criminal Procedure - Evidence - Protecting Artists'  
Creative Expression (PACE Act)

### **The MLLC supports HB0687 - Criminal Procedure - Evidence - Protecting Artists' Creative Expression (PACE Act)**

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of HB0687.

Throughout the nation artists of color, both international and national, often have their music used against them as a legal weapon. The admission of this evidence in courts is disproportionate as rap is an art form practiced primarily by people of color whose communities are overpoliced, over-criminalized, and over-incarcerated.<sup>1</sup> Studies show that rap lyrics in particular have been admitted into evidence in over 500 cases against Afro-American and Latino artists.<sup>2</sup> In Maryland in particular, there is a diverse and vibrant music scene where rap artists often use a method of story-telling to express their lived experiences. However, the criminal justice system weaponizes these creative expressions and by taking them literally, disproportionately uses them against communities of color.

This bill generally seeks to prohibit the use of these creative expressions in certain situations, but also recognizes exceptions for where the admission of such evidence may be in the best interest of justice. By doing so, this bill seeks to protect Maryland artists from the unjust use and admissions of evidence of their “creative expressions.” By prohibiting such evidence, the bill would particularly benefit the Latino community by ensuring that they are still entitled to their First Amendment rights and feel as though they can speak out, or tell their stories, in a time of federal unrest.

For these reasons, the Maryland Legislative Latino Caucus respectfully requests a favorable report on HB0687.

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<sup>1</sup> [Lyrics in Limine: Rap Music and Criminal Prosecutions](#)

<sup>2</sup> [The Policing of Afro-American Expression: Lyrics as Evidence in Court and the Implications on the First Amendment | Black Pre-Law Society](#)

# **LaPolt Law - Support for the PACE Act (Maryland HB**

Uploaded by: Dina LaPolt

Position: FAV

February 13, 2026

Maryland House of Delegates Judiciary Committee

***Re: Strong Support for the PACE Act (HB687/SB475)***

Dear Members of the Maryland House of Delegates Judiciary Committee,

As the founder and owner of LaPolt Law, P.C., one of the entertainment industry's leading law firms, I and my team of attorneys represent some of the world's most influential performing artists, songwriters, music creators and writers whose creative expression is central to their livelihoods and cultural contributions, and enhances the lives of millions of people around the world every day.

I write to strongly encourage you to support and vote in favor of the PACE Act (HB687/SB475) because this crucial legislation provides essential, common-sense guardrails to protect the First Amendment rights of all artists while ensuring fair and consistent outcomes in Maryland courts.

The PACE Act codifies the Maryland Supreme Court's ruling in *Montague vs. Maryland* (2020) and establishes a thoughtful three-part test for admission of creative expression. This bipartisan legislation addresses a critical need: ensuring that judges focus on the same criteria when evaluating admissibility of creative expression as evidence, rather than allowing cultural misunderstanding or unconscious bias about certain art forms to result in improper admission or use of creative expression in trials. This test reinforces existing Maryland law, and simply ensures that the same standard is applied for all.

For our clients, this issue is particularly urgent. Lyrics, verses, and artistic performances are forms of protected speech—yet they are increasingly being misused as evidence in criminal proceedings. Scholars at the University of Richmond and University of Georgia School of Law have tracked nearly 820 cases nationwide where creative expression was admitted as evidence, with more than 120 occurring in the past two years alone. This troubling trend threatens to chill artistic expression and disproportionately impacts artists from marginalized communities.

The consequences of failing to properly limit creative expression evidence are serious. In the past two years alone, four state courts—in Georgia, Texas, Tennessee, and New York—have reversed or vacated convictions due to improper admission of creative expression. Maryland has faced this issue as well, with a reversal ordered in *Hannah vs. Maryland* (2011). Research from Arizona State School of Law examining more than 160 cases found that trial court judges regularly fail in their required gatekeeper role in this area, demonstrating the need for a legislative remedy.

The PACE Act provides the framework Maryland needs to prevent these failures and uphold basic fairness and equal justice—core American values we should all embrace. By establishing clear criteria for judges to apply consistently, this legislation protects both defendants' constitutional rights and supports Maryland's judiciary in delivering equal justice under the law.

I urge you to vote in favor of HB687/SB475 and ensure that all artists in Maryland can create freely without fear that their protected expression will be weaponized against them.

Thank you for your thoughtful consideration.

Respectfully submitted,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Dina LaPolt

**MD letter.pdf**

Uploaded by: Erik Nielson

Position: FAV



February 13, 2026

Dear Members of the Maryland House Judiciary Committee,

I would like to express my strong support for House Bill 687 and would like to thank the sponsors of this bill, particularly Delegate Amprey, for supporting this important legislation.

This reform is urgently needed. In courtrooms in Maryland and across the country, prosecutors are increasingly introducing creative expression, especially rap music, as evidence in criminal proceedings. Rather than acknowledge rap as a form of artistic expression, police and prosecutors argue that the lyrics should be interpreted literally—in the words of one prosecutor, as “autobiographical journals”—even though the genre is rooted in a long tradition of storytelling that privileges figurative language, is steeped in hyperbole, and employs all of the same poetic devices we find in more traditional works of poetry.

This tactic effectively denies rap music the status of art and, in the process, gives prosecutors a dangerous advantage in the courtroom: by presenting rap lyrics as rhymed confessions of illegal behavior, they are often able to obtain convictions even when other evidence may be lacking. Today no other fictional form, musical or otherwise, is (mis)used like this in courts.

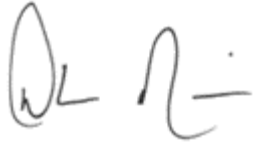
In 2026, we might expect that rap would be recognized as the art form it is, not to mention the multibillion dollar industry it has become, one that offers opportunities for upward mobility to people from communities where such opportunities are all too rare. In my own work, I see these benefits up close as young men and women are using rap music to better themselves, their families, and their communities.

And yet, despite all this, rap is being exploited in the criminal justice system. Our research has identified more than 800 cases where rap music has been used as evidence, but we know the number is far higher and growing, with no sign of slowing without the kind of legal intervention proposed by this legislation.

A growing body of research continues to demonstrate that rap music can be highly prejudicial, including in the context of a jury trial. Even the highest courts in the most conservative states—including Texas, Georgia, and Mississippi—have begun to recognize this and overturning convictions as a result. However, new judicial precedent, although encouraging, is not enough to stop a practice that has continued and grown across the country.

For that reason, I strongly urge you to pass this legislation and help ensure it becomes the law in Maryland. In doing so, you will be making a strong statement about the state's commitment to artistic expression, the First Amendment, and everyone's right to a fair trial.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erik Nielson'. The signature is stylized and cursive.

Erik Nielson, PhD  
Professor and Chair  
Department of Liberal Arts  
University of Richmond

# **MarylandPACEact.pdf**

Uploaded by: Erin McAnally

Position: FAV



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February 13, 2026

Dear Members of the Maryland House of Delegates Judiciary Committee,

We write on behalf of Songwriters of North America, Black Music Action Coalition, Artists Rights Alliance, and Music Artists Coalition to strongly encourage you to support and vote in favor of the PACE Act (HB687/SB475).

Our organizations represent thousands of music creators, songwriters, and performing artists whose creative expression is central to their livelihoods and cultural contributions. We believe the PACE Act provides essential, common-sense guardrails to protect the First Amendment rights of all artists while ensuring fair and consistent outcomes in Maryland courts.

The PACE Act codifies the Maryland Supreme Court's ruling in *Montague vs. Maryland* (2020) and establishes a thoughtful three-part test for admission of creative expression. This bipartisan legislation addresses a critical need: ensuring that judges focus on the same criteria when evaluating admissibility of creative expression as evidence, rather than allowing cultural misunderstanding or unconscious bias about certain art forms result in improper admission or use of creative expression in trials. This test reinforces existing Maryland law, and simply ensures that the same standard is applied for all.

For our community of music creators, this issue is particularly urgent. Lyrics, verses, and artistic performances are forms of protected speech—yet they are increasingly being misused as evidence in criminal proceedings. Scholars at the University of Richmond and University of Georgia School of Law have tracked nearly 820 cases nationwide where creative expression was admitted as evidence, with more than 120 occurring in the past two years alone. This troubling trend threatens to chill artistic expression and disproportionately impacts artists from marginalized communities.

The consequences of failing to properly limit creative expression evidence are serious. In the past two years alone, four state courts—in Georgia, Texas, Tennessee, and New York—have reversed or vacated convictions due to improper admission of creative expression. Maryland has faced this issue as well, with a reversal ordered in *Hannah vs. Maryland* (2011). Research from Arizona State School of Law examining more than 160 cases found that trial court judges regularly fail in their required gatekeeper role in this area, demonstrating the need for a legislative remedy.

The PACE Act provides the framework Maryland needs to prevent these failures and uphold basic fairness and equal justice—core American values we should all embrace. By establishing clear criteria for judges to apply consistently, this legislation protects both defendants' constitutional rights and supports Maryland's judiciary in delivering equal justice under the law.

We urge you to vote in favor of HB687/SB475 and ensure that all artists in Maryland can create freely without fear that their protected expression will be weaponized against them.

Thank you for your thoughtful consideration.

Sincerely,

**Songwriters of North America**

**Black Music Action Coalition**

**Artists Rights Alliance**

**Music Artists Coalition**

**FIRE FAV PACE ACT HB 687.pdf**

Uploaded by: Greg Gonzalez

Position: FAV



# **FIRE**

Foundation for Individual  
Rights and Expression

February 13, 2026

Maryland House of Delegates Judiciary Committee  
100 Taylor House Office Building  
6 Bladen St.  
Annapolis, MD 21401

**RE: FIRE urges support (FAV) for HB 687**

Chair Bartlett, Vice Chair Davis, and members of the House Judiciary Committee,

My name is Greg Gonzalez, and I am a legislative counsel with the Foundation for Individual Rights and Expression (FIRE). FIRE is a nonpartisan, nonprofit that has worked to protect the First Amendment rights of all Americans for more than 25 years. On behalf of FIRE, I write to express our strong support for HB 687, the Protecting Artists' Creative Expression Act (PACE Act).

Artistic expression is the lifeblood of a free society. Artists challenge our government and institutions, explore the human condition, and help us better understand the world around us. Every day, we create and enjoy art in countless forms whether it be visual art, film, television, music, and literature. This creative output is not peripheral to our constitutional tradition, it is central to it. As such, artistic expression enjoys robust First Amendment protection.

Yet artists today face a troubling reality: the possibility that their creative work may be used unjustly against them in criminal proceedings. The chilling effect of that possibility is profound. When artists must worry that a prosecutor may treat metaphor, storytelling, or fictional personas as literal confessions, free expression inevitably suffers.

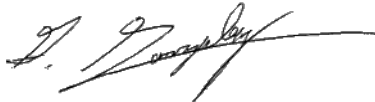
While discussions of this issue often focus on rap lyrics, many celebrated works of art across genres depict crime and violence. Bob Marley's *I Shot the Sheriff*, Johnny Cash's *Folsom Prison Blues*, and Quentin Tarantino's *Reservoir Dogs* all portray unlawful conduct. Yet we do not treat these works as literal admissions of guilt. The PACE Act provides sensible safeguards by limiting the introduction of artistic expression in criminal proceedings except in carefully defined and appropriate circumstances. The

bill does not prevent prosecutors from using artistic evidence when it is directly relevant to a specific crime. If an artist's work is clearly and demonstrably linked to the charged offense, the bill leaves the door open for that evidence to be considered by the court.

The PACE Act ensures that artistic expression cannot be taken out of context and misused simply to paint a defendant as dangerous or of bad character. That protection is essential to preserving the freedom to create without fear. This legislation strikes the right balance. It is thoughtful, it is necessary, and it is overdue.

For these reasons, FIRE respectfully urges the committee to support the PACE Act.

Very Respectfully,

A handwritten signature in black ink, appearing to read "G. Gonzalez", with a long horizontal flourish extending to the right.

Greg Y. Gonzalez  
Legislative Counsel  
Foundation for Individual Rights and Expression (FIRE)  
700 Pennsylvania Avenue, SE  
Suite 340  
Washington, DC 20003  
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**2026-02-17 HB 687 Office of Public Defender (FAV).**

Uploaded by: Hannibal Kemerer

Position: FAV



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**HANNIBAL KEMERER**  
CHIEF OF STAFF

**ELIZABETH HILLIARD**  
DIRECTOR OF GOVERNMENT RELATIONS

## POSITION ON PROPOSED LEGISLATION

TO: The Honorable J. Sandy Bartlett, Chair, Judiciary Committee

BILL: HB 687 – Criminal Procedure – Evidence – Protecting the Admissibility of Creative Expression (PACE Act)

FROM: Hannibal G. Williams II Kemerer, Chief of Staff, Office of the Public Defender

POSITION: Favorable

DATE: February 17, 2026

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The Maryland Office of the Public Defender (“OPD”) urges the Judicial Proceedings Committee to issue a favorable report on House Bill 687, Delegate Amprey’s legislation to limit the use of creative expression in adult criminal or juvenile proceedings except in limited circumstances. Under the bill, in order for the creative expression to be admissible, the trial court must find by “clear and convincing”<sup>1</sup> evidence that “(1)(i) the defendant or respondent intended the creative expression to be literal, rather than figurative or fictional; **or** (ii) if the creative expression is derivative, the defendant intended to adopt the literal meaning of the creative expression as their own; (2) 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.”<sup>2</sup>

We support HB 687 as a suitable and strong effort to codify the common law test laid out by the Maryland Court of Appeals in *Montague v. State of Maryland*<sup>3</sup> and *Hannah v. State of Maryland*,<sup>4</sup> two decisions evaluating the admissibility of rap lyrics in criminal cases. If enacted, the rule codified in HB 687 would protect our clients’ First Amendment rights to free expression, while also permitting prosecutors to admit the creative expression in a trial against the artist *if* there’s a strong *temporal* and *factual nexus* between the crime charged and the creative expression. It would not, however, permit the wholesale introduction of prejudicial and irrelevant creative

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<sup>1</sup> Such evidence is less than that required to prove a matter “beyond a reasonable doubt” but greater than a mere “preponderance of the evidence.” Maryland courts have determined that the “clear and convincing” standard of evidence is “necessary to preserve fundamental fairness in a variety of government-initiated proceedings that threaten the individual involved with ‘a significant deprivation of liberty’ or ‘stigma.’” *Coleman v. Anne Arundel County Police Dept.*, 369 Md. 108, 145 (quoting *Santosky v. Kramer*, 455 U.S. 745, 756-57 (1982)).

<sup>2</sup> See Proposed Section 10-926(b)(1), *et seq.*

<sup>3</sup> 471 Md. 657 (2020).

<sup>4</sup> 420 Md. 339 (2011).

expression that has nothing to do with the underlying crime alleged. That saving grace will serve to ensure that our clients are not improperly prejudiced in a proceeding against them by the introduction of creative expression consistent with their First Amendment rights. In short, HB 687 protects both due process and freedom of speech rights while also permitting the introduction of relevant evidence.

For these reasons, we urge the Judiciary Committee to favorably report HB 687.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Hannibal Kemerer, Chief of Staff, 6 St. Paul Street, Baltimore, MD 21202.

**L.Outlaw Statement.HB687.Feb.2026.pdf**

Uploaded by: Lucius Outlaw

Position: FAV

Statement in support of HB687 [PACE Act]

February 13, 2026

Lucius T. Outlaw III

Good afternoon distinguished delegates.

My name is Lucius Outlaw III, and I am a professor at Howard University School of law, where I teach criminal law-related courses. Today I speak on behalf of myself as a criminal law educator, criminal defense attorney, former public defender, and lifetime fan of hip-hop. Please note that I speak for myself, and not as an official representative or on behalf of Howard Law School.

Today I speak in support of HB 687 – the PACE Act. I am using my time to address two common objections to HB 687: (1) the law is not needed due to existing case law precedents; and (2) the law will deprive prosecutors of valuable evidence to prosecute dangerous and harmful criminals.

First objection: the HB 687 is not needed due to existing case law precedents. This is not true. There are good precedents where Maryland courts have barred prosecutors from using a defendant’s rap lyrics as trial evidence. However, these precedents are not sufficient substitutes for HB 687 for three reasons: (1) case law precedents do not establish clear lines in the same way as court rules established by statute; (2) case law precedents are consistently exposed to being overturned or diminished by subsequent trial and appellate judges who disagree with the precedent; and (3) prosecutors and courts readily distinguish the present case from a precedent to avoid applying the precedent’s holding and rule.

Second objection: the law will deprive prosecutors of valuable evidence to prosecute dangerous and/or harmful criminals. This is not true. The PACE Act is not a complete bar to prosecutors using rap lyrics or other artistic expression as evidence. Instead, the PACE Act imposes a test for prosecutors to satisfy if they want to use a defendant’s rap lyrics or artistic expression as criminal evidence. It is a test that is consistent with Maryland case law such as *Hannah v. State*, 420 MD 339 (2011) and *Young v. State*, 2019 WL 28881380 (Md. Ct. Sp. App. 2019). HB 687 embodies the thrust of these precedents – that to be relevant and admissible, a defendant’s rap lyrics must have a direct connection to facts of the case – that is, the lyrics must be statements of historical fact reflecting the conduct and/or circumstances of the case.

Statement in support of HB687 [PACE Act]

February 13, 2026

Lucius T. Outlaw III

Rap/hip-hop has evolved from being an underground music genre dismissed as a fad to a cultural phenomenon of great influence. Yet despite this influence, the only place that hip-hop has still not achieved the respect on par with other art forms is in our criminal courts. It is time to change that, and HB 687 is an important and needed step in the right direction.

Thank you.

# **[2026 - 02.13] HB687 (PACE Act) Written Testimony**

Uploaded by: Marlon Amprey

Position: FAV

MARLON AMPREY  
Legislative District 40  
Baltimore City

DEPUTY MAJORITY WHIP

Economic Matters Committee



The Maryland House of Delegates  
6 Bladen Street, Room 314  
Annapolis, Maryland 21401  
410-841-3520  
800-492-7122 Ext. 3520  
Marlon.Amprey@house.maryland.gov

THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

February 13, 2026

Chair Bartlett  
Vice Chair Davis  
House Judiciary Committee  
100 Taylor House Office Building  
Annapolis, Maryland 21401

**FAV Written Testimony for HB687 Criminal Procedure - Evidence - Protecting Artists'  
Creative Expression (PACE Act)**

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

Maryland has long been a hub for artistic and musical innovation. From legendary artists like Billie Holiday to current artists like Wale and Maggie Rogers, our legacy of poets, writers, and visual artists have consistently nurtured creative expression. As lawmakers, we have a responsibility to ensure that this creativity is protected, not punished. This legislation, known as the PACE Act, is a necessary step to safeguard artistic expression from being misused as criminal evidence without appropriate context or justification.

Across the country, creative works, including music lyrics, poetry, written narratives, visual art, and other forms of artistic expression, have increasingly been introduced improperly as evidence in criminal proceedings. While rap lyrics are the most frequently cited examples, these practices extend to a wide range of creative expression that is often fictional, metaphorical, or expressive rather than literal. Research conducted by Professor Erik Nielson of the University of Richmond found that rap lyrics alone were used as evidence in approximately 500 criminal cases between 2009 and 2019, underscoring a broader pattern in which artistic works are removed from their creative context and presented to juries as factual admissions of guilt.

Maryland is not immune from this trend. In *Montague v. State*, the Maryland Court of Appeals upheld the admission of a defendant's rap lyrics in a murder trial after concluding that the lyrics bore a sufficient connection to the alleged offense. While the court applied existing evidentiary standards under Maryland Rule 5-403, the case illustrates how, absent clear statutory guidance, artistic expression can be treated as factual evidence when courts believe it parallels criminal conduct. This approach places artists at risk of having fictional or expressive works interpreted literally, even when those works are rooted in storytelling, exaggeration, or cultural expression.

This legislation addresses that gap by establishing clear, reasonable guardrails for when creative expression may be admitted as evidence in criminal and juvenile proceedings. Under this bill, a defendant's artistic work may only be admitted if the court determines that:

- The defendant intended the creative work to be taken literally rather than as figurative or fictional expression;
- There is a strong and specific connection between the creative work and the alleged offense;
- The creative work is directly relevant to a disputed issue of fact

Importantly, this bill does not impose a blanket ban on the use of creative expression in court. Instead, it ensures that artistic works are admitted only when they genuinely serve the interests of justice and are not used to inflame jurors or reinforce harmful stereotypes. Without these protections, we risk criminalizing creativity and disproportionately impacting communities of color, whose artistic traditions, particularly in hip-hop, are more frequently scrutinized and misunderstood.

The music industry, civil liberties advocates, and arts organizations strongly support these protections, recognizing that this issue extends beyond individual defendants. At stake are fundamental principles of free expression, due process, and fairness in our criminal justice system.

Opponents of this legislation have expressed concern that the PACE Act would prevent prosecutors from introducing important evidence in serious cases involving domestic violence, child abuse, or other violent offenses. These concerns misunderstand both the intent and the operation of the bill.

The PACE Act does not exclude relevant evidence. It does not prevent prosecutors from presenting statements, writings, or recordings that directly describe a crime, identify a victim, or demonstrate intent connected to a specific offense. Courts would continue to admit such evidence when it meets the established standards of relevance and reliability. Judges retain full discretion under this legislation to determine admissibility on a case-by-case basis.

What the bill does prevent is the admission of creative expression that is speculative, fictional, or unrelated to the alleged conduct. Under current practice, artistic works can sometimes be introduced without a clear factual connection to the charged offense, creating a significant risk that juries may interpret metaphor, storytelling, or emotional expression as literal admissions of guilt. This risk is precisely what the PACE Act seeks to address.

For example, if an individual writes a fictional poem or journal entry exploring themes of violence, trauma, or anger without referencing specific facts, victims, or events tied to a criminal case, such writing should not be treated as proof of criminal conduct. This does not shield wrongdoing; rather, it ensures that imagination is not substituted for evidence.

Likewise, in cases involving serious crimes, any statement or writing that directly describes the offense itself, identifies participants, or demonstrates intent would remain admissible under this legislation. The PACE Act simply requires that there be a clear and specific connection between the creative work and the alleged crime before it can be presented to a jury.

In this way, the bill reinforces longstanding evidentiary principles by ensuring that guilt is determined based on factual conduct, not artistic interpretation. It protects due process while preserving the ability of courts to hold offenders fully accountable based on legitimate evidence.

While opponents argue that existing evidentiary rules already require courts to evaluate relevance and prejudice, the PACE Act does not replace those standards, it strengthens them. This legislation does not weaken prosecutors' ability to present relevant evidence in serious cases; rather, it ensures that creative expression is admitted only after it passes clear, consistent due process safeguards that prevent fiction, metaphor, or artistic storytelling from being misinterpreted as factual proof of guilt.

Maryland values both public safety and constitutional rights. It ensures that our courts rely on evidence of conduct, not creative imagination, when determining guilt or innocence. By adopting the PACE Act, we provide our judiciary with clear standards, protect artistic freedom, and uphold the integrity of Maryland's legal system.

In Maryland, we do not wait for injustice to be a pervasive problem in our state to act. Like we have done with ICE agreements, reproductive rights or voting rights, we act based on what we see as a potential or growing injustices. Passing the PACE Act is an opportunity for Maryland to stop and prevent injustice that occurs with the improper use of creative expression in court proceedings.

For these reasons, I respectfully urge a favorable report on **HB687**.

Sincerely,

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

Delegate Marlon Amprey  
40<sup>th</sup> Legislative District of Maryland

# **Recording Academy - Maryland PACE Act 2026 Support**

Uploaded by: Montana Miller

Position: FAV



February 13, 2026

**Support for HB. 687 (Amprey) / SB. 475 (Sydnor), the PACE Act**

**AN ACT to amend the criminal procedure law, in relation to rules of evidence concerning the admissibility of evidence of a defendant's creative expression.**

The Recording Academy ("Academy") is the leading organization representing thousands of individual music makers, including many artists, songwriters, and music producers in Maryland. Together, we whole-heartedly endorse and support **HB. 687 / SB. 475, the Protecting Admissibility of Creative Expression (PACE) Act** introduced by Delegate Marlon Amprey and Senator Charles Sydnor. The PACE Act will make Maryland a national leader in protecting artistic and creative expression, with only two other states passing similar legislation to date.

Maryland has long been a source of musical inspiration and creativity from the legendary jazz of Billie Holiday to today's hip hop stars like Cordae and Logic. As an industry, music contributes \$1.4 billion to the state's GDP and supports more than 20,000 jobs. However, as the industry continues to blossom, courtrooms in Maryland are threatening to stifle creativity and artistic expression. In recent years, musical works have been used as evidence in criminal proceedings in Maryland, with prosecutors often claiming that aggressive or violent lyrics are indicative of an accused artist's actual behavior.

The PACE Act is a fair solution that addresses this growing prosecutorial trend by ensuring that music, literature, film, and other works of creative expression remain properly protected by the First Amendment. Specifically, the bill establishes a presumption that a defendant's creative expression is inadmissible unless a court determines that it is relevant and meets defined evidentiary standards. To overcome this presumption, a prosecutor must demonstrate that:

1. The defendant or respondent intended the creative expression to be literal, rather than figurative or fictional.
2. If the creative expression is derivative, the defendant intended to adopt the literal meaning of the creative expression as their own.
3. The creative expression refers to the specific facts of the alleged offense.
4. The creative expression is relevant to a disputed issue of fact.

The PACE Act does not prohibit the use of relevant lyrics in a criminal trial. Instead, it implements reasonable safeguards to ensure that artists can express themselves freely, without fear that their work will be mischaracterized or used against them based on content, genre, or cultural bias. against their chosen art form.

To date, researchers and legal scholars have seen this practice apply, almost exclusively, to hip hop and rap. And while the legislation applies to any and every genre of music, one cannot ignore the detrimental impact the existing practice has had on Black and Brown artists practicing their craft. The imagery used in hip hop that reflects the real-world experiences of these artists have too often been used to bias juries in criminal proceedings. We know Johnny Cash did not shoot a man in Reno just to watch him die, but the same creative license is not afforded to hip hop artists.

The PACE Act (HB. 687 / SB. 475) represents a crucial step in protecting Maryland's creative community and ensuring that the arts can continue to thrive without undue interference from the justice system. The Recording Academy respectfully urges your support.

Respectfully,

A handwritten signature in black ink, appearing to read "T. Dupler", with a long horizontal flourish extending to the right.

Todd Dupler  
Chief Advocacy & Public Policy Officer  
Recording Academy

## **Late testimony**

Uploaded by: N. Scott Phillips

Position: FAV



# LEGISLATIVE BLACK CAUCUS OF MARYLAND, INC.

The Maryland House of Delegates, 6 Bladen Street, Room 300, Annapolis, Maryland 21401  
410-841-3185 • 800-492-7122 Ext. 3185 • Black.Caucus@house.maryland.gov

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Dear Chair and Members of the Committee,

**The Legislative Black Caucus of Maryland offers its strong and favorable support for House Bill 687 / Senate Bill 475 – Protecting the Admissibility of Creative Expression (PACE Act).** This bill establishes necessary safeguards against the misuse of creative works: such as rap lyrics, poetry, and other artistic expressions, in criminal and juvenile proceedings. It ensures that artistic expression cannot be unfairly weaponized against individuals in court unless stringent legal thresholds are met. By protecting creative works from being distorted or taken out of context, **HB 687 / Senate Bill 475** affirms the importance of artistic freedom while ensuring that prosecutions are based on concrete evidence rather than racial bias and cultural misinterpretations.

For Black Marylanders, this legislation is particularly crucial. Maryland, and Baltimore in particular, has a long-standing reputation for producing groundbreaking Black artists, poets, and musicians whose work has shaped national and global culture. However, in a legal system which disproportionately police and prosecute Black individuals, artistic expression, especially in rap music, has been wrongfully used as a means of criminalizing Black voices. **HB 687 / Senate Bill 475** ensures that Black creators can continue to engage in artistic expression without fear that their words will be misrepresented in a courtroom. Moreover, it protects young Black Marylanders by encouraging their participation in music, poetry, and the arts as positive outlets for creativity, economic opportunity, and personal expression, rather than allowing their words to be misconstrued as criminal intent.

**HB 687 / Senate Bill 475** also serves as a step toward addressing racial disparities in the criminal justice system by reducing the likelihood of racial profiling and cultural bias in legal proceedings. By affirming that art is not a crime, this bill safeguards Black artistic contributions and upholds principles of fairness and due process.

For these reasons, the Legislative Black Caucus of Maryland strongly supports **HB 687 / Senate Bill 475**.

Legislative Black Caucus of Maryland

**HB687\_ACLUMD\_FAV.pdf**

Uploaded by: Olivia Spaccasi

Position: FAV



## Testimony for the House Judiciary Committee

February 17th, 2026

### HB 687 - Criminal Procedure - Evidence - Protecting the Admissibility of Creative Expression (PACE Act)

#### FAVORABLE

OLIVIA SPACCASI  
PUBLIC POLICY  
ANALYST

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ANDREW FREEMAN  
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on HB 687, which seeks to create needed guidelines on the admissibility of creative expression-based evidence in criminal proceedings. HB 687 reinforces the legal protections guaranteed to all Marylanders by the First Amendment.

One of the primary legal issues HB 687 addresses is the interpretation and relevance of creative expression, such as rap lyrics, in criminal proceedings. There is inherent ambiguity and subjectivity involved in interpreting artistic works, especially those rooted in cultural contexts such as rap music.<sup>1</sup> Without clear guidelines and criteria for assessing the intent and relevance of creative expression, there is a risk of misinterpretation and prejudice against defendants.

Another issue that HB 687 combats is the potential for creative expression to be misused as evidence of guilt or criminal behavior. Throughout the country, and more importantly the state of Maryland, rap lyrics have been introduced as evidence in criminal trials to portray defendants as violent or dangerous individuals, without proper consideration of the artistic nature of the expression or the context in which it was created.<sup>2</sup> HB 687 seeks to address this issue by requiring the court to make specific findings regarding the intent, relevance, and probative value of creative expression before admitting it as evidence. If there is no probative value to be gleaned from the creative expression with regard to the facts of the matter before the court, the evidence should not be admissible.

On First Amendment grounds, allowing instances of creative expression, such as rap lyrics, to be used against defendants in criminal

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<sup>1</sup>[https://www.americanbar.org/groups/communications\\_law/publications/communications\\_lawyer/2023-winter/lyrics-limine-rap-music-and-criminal-prosecutions/#52](https://www.americanbar.org/groups/communications_law/publications/communications_lawyer/2023-winter/lyrics-limine-rap-music-and-criminal-prosecutions/#52)

<sup>2</sup> *Id.*

proceedings could have a chilling effect on artistic expression, particularly within marginalized communities where rap music serves as a form of cultural expression and social commentary. The Maryland Court of Appeals has admitted as much with regard to rap lyrics and the “prejudicial effect that often accompanies their admission.”<sup>3</sup> HB 687 is needed in this state to ensure that the First Amendment right to creative expression is not infringed upon by our criminal justice system.

For these reasons, the ACLU of Maryland urges a favorable report on HB 687.

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
MARYLAND

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<sup>3</sup> *Hannah v. State*, 420 Md. at 339.

# Supporting HB687 - FOA.pdf

Uploaded by: Phil Walotsky

Position: FAV



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

**Feb 2026 MD PACE Act.pdf**

Uploaded by: Rafael Fernandez

Position: FAV



February 13, 2026

The Honorable Delegate J. Sandy Bartlett  
Maryland House of Delegates Judiciary Committee  
100 Taylor House Office Building  
101 Taylor House Office Building  
Annapolis, Maryland 21401

Re: **PACE Act (HB687/SB475)**/SUPPORT

Dear Delegate Bartlett:

The Recording Industry Association of America (RIAA)\* offers its support for **HB687/SB475**, legislation that will limit the admissibility of creative expression against a defendant in a criminal proceeding.

Rooted in imagination, creative expression's greatest capacity is to lift us out of the real world and to present us with the unexpected, the unlikely, and the unthinkable. Hyperbole and fantastical imagery are customary, and often necessary, elements of that creative expression. Bob Marley and Eric Clapton understood this when they sang about shooting the sheriff. Johnny Cash understood it when he claimed to have "shot a man in Reno just to watch him die." The Beatles weren't ones to truly subscribe to the notion that "Happiness is a Warm Gun." And no one truly believed that Freddie Mercury "just killed a man" in Queen's "Bohemian Rhapsody."

Yet, when rap and hip-hop artists adhere to this time-honored tradition of make-believe, their lyrics are too often – and unfairly – taken literally, stripped of the poetic license afforded other genres. While such mischaracterization may be uneventful in everyday music consumption, its application in criminal proceedings can skew the truth and destroy artists' lives.

**HB687/SB475** seeks to address this issue, and we respectfully request your support.

Sincerely,  
Michele Ballantyne  
President and COO

cc: Honorable Members, Maryland House of Delegates Judiciary Committee

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\* The Recording Industry Association of America® advocates for recorded music and the people and companies that create it in the United States. RIAA's several hundred members – ranging from major American music groups with global reach to artist-owned labels and small businesses – make up the world's most vibrant and innovative music community, working to help artists reach their potential and connect with fans while supporting hundreds of thousands of American jobs.

# **Support Testimony for PACE Act HB687 (2026).pdf**

Uploaded by: Ivan Bates

Position: FWA



OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

February 17, 2026

The Honorable Sandy Bartlett  
Chairwoman, House Judiciary Committee  
House Office Building  
101 Taylor House Office Building  
Annapolis, MD 21401

**RE: HB687 Support with Amendments**

Dear Chairwoman Bartlett, Vice Chairwoman Davis, and members of the Committee:

Thank you for the opportunity to provide testimony in support of **House Bill 687**, the ***Protecting Artists' Creative Expression (PACE) Act***. I respectfully urge the Committee to issue a **favorable report with amendments**.

HB687 takes an important and overdue step toward ensuring that creative expression music, poetry, visual art, performance, and other protected forms of artistic speech is not misused in criminal or juvenile proceedings. The bill recognizes a basic truth: art is often metaphorical, fictional, aspirational, or expressive of emotion, not a literal confession of conduct or intent.

**Why HB687 Matters**

Across the country and here in Maryland, courts have increasingly allowed creative works particularly music and poetry to be introduced as evidence against defendants, often without sufficient context or safeguards. Any evidence used to prove or disprove any essential fact in a criminal trial must be evaluated for relevance. Permitting courts to admit creative work with dubious relevance to any particular fact is tantamount to allowing a creative work to become character evidence; thereby risking transforming artistic expression into a proxy for character evidence, reinforcing harmful stereotypes and free expression, especially for young people and artists of color.

HB687 establishes a reasonable and balanced evidentiary standard. Under the bill, creative expression may only be admitted if the court finds, by a preponderance of the evidence, that:

1. The defendant intended the expression to be literal rather than fictional or figurative (or intended to adopt a derivative work's literal meaning as their own);



OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

2. The expression refers to the specific facts of the alleged offense; and
3. The expression is relevant to a disputed issue of fact.

This framework does not create a blanket ban. Instead, it ensures that creative works are treated with the same care and scrutiny as other potentially prejudicial evidence.

### **Support for the Juvenile Exception**

The provision allowing creative expression to be used in juvenile cases for purposes such as mental health evaluation, services, or diversion is particularly important. It preserves the rehabilitative goals of the juvenile justice system while preventing punitive misuse of art against young people.

### **Recommended Amendment: Explicit Probative vs. Prejudicial Analysis**

While we strongly support HB687, we recommend a clarifying amendment to strengthen the bill's protections and guide courts in its application.

Specifically, we urge the Committee to amend the bill to **explicitly require the court to conduct and articulate an analysis weighing the probative value of the creative expression against its prejudicial effect as an initial step in the admissibility determination.**

In plain terms, this amendment would ensure that before creative expression is admitted into evidence, the court must first consider whether the evidence is genuinely useful in proving a disputed fact and whether that usefulness is outweighed by the risk of unfair prejudice, bias, or misunderstanding by a jury.

This is a familiar and well-established principle in evidentiary law, but stating it clearly in the statute will:

- Provide meaningful guidance to judges,
- Promote consistent application across courts, and
- Reinforce the bill's core purpose of preventing artistic expression from being used to inflame or mislead rather than to inform.



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**Conclusion**

HB687 reflects Maryland's commitment to fairness, free expression, and due process. With the recommended amendment, the bill will strike the right balance protecting constitutional and creative freedoms while preserving the ability of courts to admit truly relevant evidence when appropriate.

For these reasons, I respectfully request a **favorable report with amendments** on HB687.

Sincerely,

*Ivan J. Bates*

Ivan J. Bates

Baltimore City State's Attorney

**HB 687 - unfavorable - PACE.pdf**

Uploaded by: Kirsten Brown

Position: UNF

**Ivan Bates**  
President



**Kirsten N. Brown**  
Executive Director

Maryland State's Attorneys' Association  
3300 North Ridge Road, Suite 185  
Ellicott City, Maryland 21043  
[kbrown@mdsaa.org](mailto:kbrown@mdsaa.org) ~ 301-748-1312

**Date:** February 13, 2026  
**Bill Number:** HB 687  
**Position:** Unfavorable

The Maryland State's Attorneys' Association (MSAA) opposes House Bill 687 and urges this Committee to issue an unfavorable report.

This bill risks making threats, intimidation, and witness tampering more difficult to admit when they are cloaked in so-called "creative expression" or metaphor. In effect, it raises the burden of proof on the State and creates a potential defense where none should exist. Threats do not become less threatening simply because they are stylized, indirect, or artistic.

The legislature's attempt to define "artist" and "creative expression" is particularly troubling. Those determinations are not legislative functions. They are evidentiary questions that trial judges already handle every day under the Maryland Rules of Evidence. Courts are well equipped to assess relevance, probative value, prejudice, and context without carving out special treatment for certain forms of speech.

This bill would also have serious consequences in domestic violence, stalking, and sexual exploitation cases. Under HB 687, an abuser's poems, lyrics, or metaphor-laden statements could receive special protection simply because the references are not explicit. That same concern applies to predatory conduct disguised as "creative expression." The implications extend far beyond the narrow group the bill appears designed to protect.

Practically, this legislation invites unnecessary and harmful pretrial litigation. Would courts be required to hold pretrial hearings to determine whether a defendant meant a statement literally or figuratively? Would victims and witnesses have to testify before trial about how they interpreted a defendant's "creative" statements—subjecting them to cross-examination and retraumatization before the jury is even empaneled?

If an abuser turns threatening text messages into a haiku or a rap verse, does that trigger a special evidentiary process? That result is not only unworkable, it undermines victim safety and the truth-seeking function of the trial.

The existing rules already strike the appropriate balance between free expression and admissible evidence. HB 687 is unnecessary, overbroad, and risks real harm to victims and witnesses while complicating prosecutions in cases where context and intent are critical.

MSAA urges this Committee to issue an unfavorable report.

**HB 0687\_HoCoState'sAtty\_Unfavorable\_PACE Act 2.13.**

Uploaded by: Rich Gibson

Position: UNF



## HOUSE BILL 0687

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

RICH GIBSON, HOWARD COUNTY STATE'S ATTORNEY

**POSITION: UNFAVORABLE FOR HB 0687**

February 13, 2026

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 MSAA). 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 MSAA 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.**

**hb687.pdf**

Uploaded by: Will Vormelker

Position: UNF

HON. STACY A. MAYER  
CIRCUIT COURT  
JUDGE  
BALTIMORE COUNTY  
CHAIR

HON. RICHARD SANDY  
CIRCUIT COURT  
JUDGE  
FREDERICK COUNTY  
VICE-CHAIR



KELLEY O'CONNOR  
ASSISTANT STATE COURT  
ADMINISTRATOR  
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SUZANNE PELZ, ESQ.  
SNR. GOVT. RELATIONS AND  
PUBLIC AFFAIRS OFFICER  
P: (410)260-1523

## MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

### MEMORANDUM

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 687  
Criminal Procedure – Evidence – Protecting Artists’ Creative  
Expression (PACE Act)  
**DATE:** February 4, 2026  
(2/17)  
**POSITION:** Oppose

---

The Maryland Judiciary opposes House Bill 687. This bill would provide that in any criminal proceeding or juvenile proceeding, the “creative expression” of a defendant or respondent is not admissible against the defendant/respondent unless the court finds, by clear and convincing evidence, certain things.

The Judiciary recognizes the bill’s attempt to respond legislatively to the Supreme Court of Maryland’s decision in *Montague v. State*, 471 Md. 657 (2019), and takes no position on the stated intent to protect the admissibility of creative expression. That policy prerogative is appropriately reserved for the legislature. The Judiciary would note that the bill appears to cover all expression that is not literal, which could include common use of analogies and metaphors, and preclude all manner of statement from admission – more than songs, poems, and artistic expression. A litigant may raise the issue of admissibility of any analogy or metaphor thereby requiring an additional evidentiary hearing, which would delay trials on their merits.

cc. Hon. Marlon Amprey  
Judicial Council

Legislative Committee  
Kelley O'Connor