

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 687
Judiciary

(Delegate Amprey, *et al.*)

Judicial Proceedings

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

This bill prohibits the “creative expression” of a defendant or respondent from being admitted against the defendant or respondent in a criminal or juvenile proceeding unless the court makes specified findings. The bill does not preclude the admission of creative expression in juvenile cases for the purposes of evaluating, recommending, or ordering referral to mental health services or diversion programs.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: In any criminal or juvenile proceeding, the creative expression of a defendant or respondent is not admissible against the defendant or respondent unless the court finds, by a preponderance of the evidence, that:

- the defendant or respondent intended the creative expression to be literal, rather than figurative or fictional *or* if the creative expression is derivative, the defendant intended to adopt the literal meaning of the creative expression as their own;
- there is a close temporal and factual nexus between the creative expression and the alleged offense;

- the creative expression is relevant to a disputed issue of fact; and
- the probative value of the creative expression outweighs its prejudicial effect.

“Creative expression” means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols that is eligible for federal copyright protection under 17 U.S.C. § 102. “Creative expression” includes music, dance, performance art, visual art, poetry, literature, and film.

Current Law: The Maryland Rules of Evidence generally follow the Federal Rules of Evidence. Except as otherwise specified, all relevant evidence is admissible. Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. Although relevant, evidence may be excluded under Maryland Rule 5-403 if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Generally, evidence of a person’s character or character trait is not admissible to prove that a person acted in accordance with the character trait on a particular occasion.

Subject Matter of Copyright – 17 U.S.C. § 102

Copyright protection subsists in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated (either directly or with the aid of a machine or device). Works of authorship include the following categories:

- literary works;
- musical works, including any accompanying words;
- dramatic works, including any accompanying music;
- pantomimes and choreographic works;
- pictorial, graphic, and sculptural works;
- motion pictures and other audiovisual works;
- sound recordings; and
- architectural works.

Copyright protection for an original work of authorship does not extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1346 and SB 1001 of 2025; HB 1429 and SB 662 of 2024; and HB 940 of 2023.

Designated Cross File: SB 475 (Senator Sydnor, *et al.*) - Judicial Proceedings.

Information Source(s): Department of Juvenile Services; Department of Legislative Services

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