

HCS HBs 1389 & 1040 -- ADMISSIBILITY OF A DEFENDANT'S CREATIVE EXPRESSION

SPONSOR: Keathley

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Emerging Issues by a vote of 11 to 1.

The following is a summary of the House Committee Substitute for HBs 1389 & 1040.

This bill establishes the "Restoring Artistic Protection Act of 2025", which specifies that, subject to exceptions provided in the bill, evidence of a defendant's "creative or artistic expression", as defined in the bill, whether original or derivative, is not admissible against the defendant in a criminal case except under certain circumstances.

If the court admits any such evidence, the court must ensure that the expression is redacted in a manner to limit the evidence presented to the jury and the court must provide appropriate limiting instructions to the jury.

This bill is the same as HB 1040 (2025) and similar to HB 353 (2023).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that in criminal law, the court does not allow prior conduct of an individual to be admitted as evidence against someone. Similarly, just because a poet or songwriter drafts a poem or song about death or murder, that does not in and of itself mean that the author is therefore more likely to have committed some specific crime. Supporters further say that this bill will protect artist's freedom of speech.

Testifying in person for the bill were Representative Keathley; Arnie C. Dienoff; Phil Walotsky, Free Our Art; and Ron Gubitz, Music Artists Coalition.

OPPONENTS: There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.