



Tuesday, February 23, 2021

Dear Members of the House Judiciary Finance and Civil Law Committee,

On behalf of Americans for Prosperity activists across Minnesota, I am writing today in support of HF992, which bolsters essential due process protections in our criminal justice system.

HF992 codifies evidence discovery requirements constitutionally mandated by the U.S. Supreme Court. The bill ensures that prosecutors fulfill their duty to disclose the substance of planned testimony by incentivized witnesses, sometimes called “jailhouse informants” to courts and the defense. These are individuals that provide testimony regarding conversations or other information they’ve obtained while the defendant and the witness are both in some sort of detention setting such as a prison or jail.

Incentivized witnesses, who testify against defendants in exchange for a benefit, have a notorious track record as a leading cause of false convictions. A comprehensive nation-wide survey of exonerations found that incentivized witnesses were responsible for almost a fifth of known false guilty verdicts.<sup>1</sup> Even more seriously, incentivized witnesses are the leading cause of all wrongful capital convictions.<sup>2</sup>

HF992 requires the prosecution to inform the court of how a prospective incentivized witness stands to benefit from his or her testimony as well as background information that can help the court assess the witness’ reliability, such as whether they changed their statement or if other evidence corroborates their accusations.

This legislation’s provisions are entirely sensible protections of an individual’s due process rights, a fundamental pillar of the American criminal justice system. Truthful evidence, regardless of the incentives behind it, is valuable and should be heard, but it is imperative that judges, juries, and the accused are aware of potential biases in that evidence before the government can deprive them of their liberty.

Thank you for your time and attention to these important issues. Please don’t hesitate to reach out if you have questions, need more information, or if you would like to discuss this issue further.

Sincerely,

Jason Flohrs  
State Director  
Americans for Prosperity – Minnesota

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<sup>1</sup> <https://www.law.umich.edu/special/exoneration/Documents/Exonerations%20in%202018.pdf>

<sup>2</sup> <http://johnwilkinson.com/files/Judging%20Innocence,%20by%20BrandonGarrett.pdf>