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## AB 101: TRANSPARENT USE OF JAILHOUSE INFORMANTS

**AB 101 IS ENDORSED BY THE INNOCENCE PROJECT, THE NEVADA DISTRICT ATTORNEY'S ASSOCIATION AND MANY LOCAL ORGANIZATIONS**

In 2019, Nevada enacted legislation to compensate persons who are wrongfully convicted by the state. One of the main advocates for the legislation was DeMarlo Berry. Mr. Berry had been wrongfully convicted for 22 years in part due to the testimony of a person who was in jail with him while he awaited trial. This "jailhouse informant" testified that Mr. Berry had confessed to the crime while they were jailed together. Through the exoneration process, it was revealed that the informant lied in exchange for benefits that were never disclosed to the defense and which would have undermined the informant's credibility at trial.

**AB101 IS THE FIRST STEP IN NEVADA MAKING GOOD ON ITS PROMISE TO PREVENT THE CAUSES OF WRONGFUL CONVICTIONS AND THE NEED TO COMPENSATE PEOPLE LIKE DEMARLO BERRY IN THE FUTURE**

### JAILHOUSE INFORMANTS & WRONGFUL CONVICTIONS

AB 101 will help prevent the risks posed by jailhouse informants - informants who are jailed with a defendant and testify in exchange for a benefit provided by the state. Importantly, AB101 does not affect the use of "confidential informants" or other witnesses used by the state.

- **High Risk for Wrongful Convictions:** Jailhouse informants have played a role in more than 185 wrongful convictions in the United States, according to the National Registry of Exonerations, including the cases of DeMarlo Berry and Fred Steese in Nevada.
- **Lack of Transparency & Potential for Constitutional Violations:** The U.S. Supreme Court has ruled that prosecutors must disclose the discrediting evidence about informants covered by AB101 to the defense, including promised benefits and their complete criminal history. However, there isn't sufficient specificity about what types of information are covered. When this information is disclosed late, incompletely, or not at all, the accused cannot prepare an adequate defense that raises credibility concerns to the judge and jury. AB101 does not expand constitutional mandates but clarifies what information is covered and ensures information is properly tracked for disclosure.
- **Broad National Adoption & Bipartisan Support:** Republican and Democratic Lawmakers across the country have seen the value in tracking jailhouse informant usage. AB101 is consistent with legislation & rules in CT, FL, IL, MD, NE, OK, and TX and model policy adopted by the *American Legislative Exchange Council* in 2018.