

Testimony from the Innocence Project and the Midwest Innocence Project in opposition to  
HB2782

The Innocence Project (IP) and the Midwest Innocence Project (MIP) are two organizations that work to free the innocent, prevent wrongful convictions, and create fair, compassionate, and equitable systems of justice for everyone. Over our shared histories, we have freed more than 400 individuals who were serving time for crimes they did not commit. The primary lesson we've learned in the decades we've been doing this work is that our criminal justice system can and does convict innocent people. That's why IP and MIP are submitting this written testimony in opposition to HB2782.

More than 200 individuals who had been condemned to death have been exonerated of the crime for which they were sentenced. Worse, it is very likely that innocent individuals have been executed in this country. The risk of executing an innocent person remains a clear and present danger to this day. Just across the river in Missouri, the ongoing case of Marcellus Williams, whose DNA was excluded from the murder weapon in his case, highlights that even those with valid claims of actual innocence are still at risk of being put to death for crimes they did not commit. Mr. Williams has twice faced execution, and in 2017 was granted a reprieve just hours before his scheduled death when the Governor stayed his execution and asked for more investigation. Now, six years later, the prosecutor has filed a motion to overturn Mr. Williams conviction on the basis he is innocent – something he would not have lived to see had his scheduled execution not been halted.

In 2014, the National Academy of Sciences determined that, at a minimum, 4.1% of those on death row – including people who were already executed – are or were innocent, a shockingly high number. But the causes of wrongful conviction – eyewitness misidentification, jailhouse informants, false confessions – remain, at best, only half addressed in states across the country.

Despite the legislature's work to prevent wrongful convictions, this bill would condemn innocent people who cannot currently prove their innocence from living to see a day when they can. Worse, this bill would allow for the use of hypoxia as a means of carrying out the sentence—a methodology that even the American Veterinary Medicine Association cited as not an acceptable method for euthanizing animals, let alone humans.

The use of hypoxia as a method for execution is a frightening development in the failed, decades-long race to the bottom of being the most punitive criminal justice state in the nation. Further, this bill does not even denote the type of hypoxia that the state may use to carry out its sentence, allowing for the terrifying possibility that the state could simply use a pillow to smother a prisoner. While the use of nitrogen hypoxia is incredibly problematic on its own, the way this bill is written is broad enough to encompass even more dystopian possibilities.

Perhaps in part to the decades of advocacy from organizations like IP and MIP, public opinion has shifted on the death penalty broadly. A record-low of Americans, 47%, now think that the death penalty is administered fairly. When asked if they would support the death penalty over

other sentences, most notably life without parole, that number drops even further, down to below 35%. Americans have spoken: we do not want more executions.

Because of the potential for wrongfully convicted individuals to be executed; because of the more than 3000 individuals who have been exonerated; because the public no longer supports it; and because no person should be subjected to torture we wouldn't even use on animals, we oppose HB2782 and its expansion of the death penalty.