With Roe Overturned, 90 Elected Prosecutors Commit to Not Prosecute Abortions

DAs and AGs Publicly Pledge to Use Their Settled Discretion and Not Criminalize Personal Healthcare Decisions

In the wake of the Supreme Court’s decision to overturn Roe v. Wade, 90 elected prosecutors from around the nation committed to use their well-established discretion and refuse to prosecute those who seek, assist in or provide abortions, calling the criminalization of abortion care “a mockery of justice.” These elected prosecutors – collectively representing over 91.5 million people from 31 states and territories and the District of Columbia, including over 28.5 million from 12 states where abortion is now banned or likely to be banned – argue in a joint statement that using limited criminal justice resources to prosecute personal healthcare decisions runs counter to their obligation to pursue justice and promote public safety.

“Today’s Supreme Court decision is a jarring betrayal of generations of Americans who have come of age with the right to make decisions about their own bodies,” said Miriam Krinsky, Executive Director of Fair and Just Prosecution, the organizer of the statement. “By cruelly and callously stripping away a 50-year-old fundamental right, a majority of the Court has undermined the legitimacy of the criminal legal system and trust in the rule of law. With many states now seeking to criminalize those who seek, perform and receive abortion care, elected prosecutors are the last line of defense in protecting patients and providers from criminal charges. At this frightening and dark moment, we desperately need the bold leadership demonstrated by these signatories – and hope to see far more prosecutors across the country join this chorus.”

Now that Roe v. Wade has been overturned, abortion has been or will soon be banned in at least 26 states. Among the most draconian and dangerous statutes are Texas’ trigger law and an Alabama law under which those who perform an abortion could face life sentences in prison. A recent law in Oklahoma makes it a felony to provide abortions, punishable by up to 10 years in prison, with no exceptions for rape or incest. Bans in Missouri, Tennessee and Utah carry sentences of up to 15 years for providers of abortion care.

“As an elected prosecutor, I took an oath to protect all in my community in the pursuit of justice. Using limited resources to prosecute personal healthcare decisions would be a violation of that promise,” said Bexar County (San Antonio), Texas District Attorney Joe Gonzales. “Outlawing abortion will not end abortion; it will simply end safe abortions and prevent people from seeking the
care and help they need for fear of criminal prosecution. I refuse to subject members of my community to that risk.”

The signatories make clear that they approach the issue of abortion from varied personal perspectives but come together in agreement that enforcing abortion bans is a threat to many in their communities: “As elected prosecutors, when we stand in court we have the privilege and obligation to represent the people. All members of our communities are our clients – they elected us to represent them and we are bound to fight for them as we carry out our obligation to pursue justice. Our legislatures may decide to criminalize personal healthcare decisions, but we remain obligated to prosecute only those cases that serve the interests of justice and the people.”

The statement also emphasizes how abortion bans disproportionately harm victims of sexual abuse, rape, incest, human trafficking and domestic violence, and that many anti-abortion laws either do not provide exceptions for victims of sexual violence or force survivors to choose between reporting their assault or carrying an unwanted pregnancy to term.

"Anti-abortion laws endanger the lives and health of marginalized individuals whose access to safe abortion procedures will be restricted the most,” said DeKalb County, Ga. District Attorney Sherry Boston, a signatory to the statement. “Our focus should be on violent offenders and crimes that truly impact public safety and quality of life for the communities we serve.”

“The voters that elected me Michigan’s Attorney General did so knowing I would never place women in the untenable position of having to choose between exercising their personal healthcare decisions and the threat of criminal prosecution,” said Michigan Attorney General Dana Nessel, another signatory to the statement. “I have never wavered in my stance on this issue, and I will not prosecute women or their medical providers for a personal medical decision.”

The signatories include Attorneys General Joshua R. Diamond (Vermont - Acting AG), Keith Ellison (Minnesota), Maura Healey (Massachusetts), Kathleen Jennings (Delaware), Edward E. Manibusan (Northern Mariana Islands), Dana Nessel (Michigan), Karl Racine (District of Columbia) and Phil Weiser (Colorado), as well as elected prosecutors from states with trigger laws or laws banning abortion, such as Wesley Bell (St. Louis County, Mo.), Danny Carr (Jefferson County, Ala.), John T. Chisholm (Milwaukee County, Wis.), Shameca Collins (6th Judicial District, Miss.), John Creuzot (Dallas County, Texas), Glenn Funk (Nashville, Tenn.), José Garza (Travis County, Texas), Joe Gonzales (Bexar County, Texas), Mark Gonzalez (Nueces County, Texas), David Leyton (Genesee County, Mich.), Karen McDonald (Oakland County, Mich.), Brian Middleton (Fort Bend County, Texas), Jody Owens (Hinds County, Miss.), Eli Savit (Washtenaw County, Mich.), Carol Siemon (Ingham County, Mich.), Matthew J. Wiese (Marquette County, Mich.) and Jason Williams (Orleans Parish, La.).

The full statement is available here and see below for a full list of signatories.

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Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP’s work, visit our website and follow us on Facebook, Twitter, and LinkedIn.
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