Nearly 65 Criminal Justice Leaders Urge Tenn. Court to Protect District Attorneys’ Ability to Correct Wrongful Death Penalty Convictions

By removing authority from locally elected DAs, Tennessee’s recently passed law infringes on the right of voters to be represented by leaders who reflect their values in the most critical of cases.

JACKSON, TENN. – Today, a bipartisan group of 64 public safety and criminal justice leaders filed an amicus brief urging the Tennessee Court of Criminal Appeals to defend voters’ rights, prosecutorial independence and the integrity of the justice system by affirming a trial court’s ruling and declaring a recently enacted law unconstitutional. If allowed to stand, the law would empower Tennessee’s appointed attorney general to remove locally elected district attorneys from post-conviction death penalty cases, preventing them from correcting wrongful convictions where life and death are at stake. The signatories to the brief – which include current and former elected prosecutors and attorneys general and former judges, U.S. Attorneys and Department of Justice officials – argue that the law undermines democracy and erodes trust in the justice system, which threatens public safety.

“As ministers of justice, all prosecutors have an obligation to ensure innocent people aren’t wrongfully punished – especially in capital cases where a human life is at stake. Yet, the Tennessee legislature has inexplicably given an unelected official the power to strip district attorneys of the ability to correct these injustices simply because they disagree with recently elected DAs who pledged to review and rectify mistakes of the past,” said Miriam Krinsky, Executive Director of Fair and Just Prosecution, the organizer of the brief, and a former federal prosecutor. “This law is an attack on the independence of prosecutors and an assault on the right of voters to have a say in their local justice system, and we hope that the appellate Court will affirm the lower court’s decision that puts an end to this unconstitutional act.”

The signatories emphasize how the law harms crime survivors and threatens public safety:
“When an innocent person remains behind bars—or worse, is executed—and the person who committed the crime is still free—there is no closure and no justice from victims’ perspective. Nor is there public safety if the actual perpetrator remains at large…. [T]he public safety implications that occur when prosecutorial discretion is invaded amply extend to the trial court post-conviction phase. Indeed, people may lose even more trust when their elected official can do nothing to correct a clear injustice.”
“As a former judge, I know that the ability to revisit convictions plays a crucial role in upholding the integrity of our criminal legal system and fostering community trust. By thoroughly examining past cases and publicly addressing errors, elected prosecutors demonstrate their dedication to fairness and safeguard against future wrongful convictions. Any effort to impede their obligation to rectify past mistakes undermines transparency, erodes public confidence and hinders the pursuit of true justice,” said Kevin H. Sharp, a former federal judge and counsel for amici.

The brief further warns of the dangers of legislative infringement on the will of the people: “When a community thinks that someone can take away their say in how their democratically elected officials carry out their jobs, or that other elected officials—who they may not have voted for—are able to chip away at democracy when it suits them, public trust in the integrity of the rule of law suffers. And, as a result, so does public safety…. This concerning consequence is especially likely here, where the legislature…is eviscerating the voters’ right to choose who should represent them in cases involving the most serious punishment.”

“As an elected prosecutor, I am entrusted by and accountable to my community to follow through on their vision of public safety and justice. If state leaders are allowed to disregard the desires of voters they disagree with by simply redistributing power to an unelected official, confidence in our democracy and institutions will suffer, which makes us all less safe,” said Dallas County District Attorney John Creuzot, a signatory to the brief and also a former judge.

In addition to a number of current and former elected prosecutors – including Attorney General Brian Schwalb (Washington, D.C.) and former Attorneys General Scott Harshbarger (Massachusetts) and James Tierney (Maine) – signatories include former judges Bobbe J. Bridge, William Royal Furgeson, Jr. and Nancy Gertner and former U.S. Attorneys Richard Pocker and William Wilmoth.

Read the brief here; see below for a list of amici.

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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](#), [LinkedIn](#), and [Threads](#).*
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