



OFFICE OF THE DISTRICT ATTORNEY GENERAL

GLENN R. FUNK
District Attorney General

June 9, 2021

Honorable John D. Ragan
State Representative
425 Rep. John Lewis Way N.
Cordell Hull Building, Suite 614
Nashville, TN 37243

Dear Chairman Ragan,

I am writing to answer the questions posed in your May 29, 2021 letter.

When asked by the media if I would enforce what is being called the transgender bathroom law, my complete reply was as follows:

“I believe every person is welcome and valued in Nashville. Enforcement of transphobic and homophobic laws is contrary to those values. My office will not promote hate.”

In response to your remark regarding our “constitutionally ordered government,” prosecutorial discretion is enshrined in the Tennessee Constitution. Our Constitution established the legislative, judicial and executive branches of government as three separate but coequal branches. Each branch of government is given the power to ‘check’ the power of the other two branches and act as a ‘balance’ to prevent any one branch of government from having too much power over the people or over another governmental branch. District Attorneys, as part of the judicial branch under Article VI, have the discretion of when and under what circumstances to enforce laws enacted by the legislative branch and signed by the executive branch.

In addition, under Tennessee law, the District Attorneys Conference has “the duty to give consideration to the enactment of such laws and rules of procedure as in its judgment may be necessary to suppress crime more effectively, and thus promote peace and good order in the state. To this end, a committee of its members shall be appointed to draft suitable legislation and submit its recommendations to the general assembly.” T.C.A. §8-7-303. The Legislature did not confer with the District Attorneys Conference prior to enacting this law and certainly should have if this law was meant to contain criminal sanctions.

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My office is devoted to public safety, prosecuting violent crimes and supporting victims. However, this law does not accomplish those goals. Instead, it only dehumanizes transgender people and falsely portrays them as predators. History is blemished by far too many examples of the government openly discriminating against LGBTQ individuals.

I believe LGBTQ people deserve the same protections and safety I desire for my own family. The District Attorney's Office must advocate for all citizens without exception.

I look forward to continuing to work with the Legislature pursuant to T.C.A. §8-7-303.

The resources of my office will remain focused on the safety of the Nashville community.

Sincerely,



Glenn R. Funk
District Attorney General

P.S.

Your most recent letter cited State v. Mallard. I have attached that opinion. It supports my position.

cc: Governor Bill Lee
Lieutenant Governor Randy McNally
Speaker of the House Cameron Sexton
Majority Leader William Lamberth
Majority Caucus Chair Jeremy Faison
Chairman Kerry Roberts
Judiciary Chairman Michael G. Curcio