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March 9, 2015

Senator Greg Evers
Chair, Criminal Justice Committee
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Evers:

As former judges and prosecutors, we write in support of Senate Bill 664/House Bill 139, which would require a jury to agree unanimously to recommend the death penalty and to unanimously agree – beyond a reasonable doubt – on each aggravating circumstance before a death sentence may be imposed. In our experience, the justice system works best when it is fair and reliable, and requiring a jury to unanimously agree to recommend that a death sentence should be imposed is a common-sense way to achieve this goal.

As a group, we take no stand on whether the death penalty should be used as a form of punishment. In fact, many of us do support the death penalty. However, we believe that wherever it is implemented, capital punishment should be carried out in such a way that ensures that the process is fair and prevents irreversible mistakes. So far, 25 individuals have been exonerated from death row in Florida due to evidence of innocence. This goes to show that the system, even with well-intentioned judges, prosecutors and jurors, can make mistakes. Requiring a jury to agree unanimously to recommend the death penalty can help to safeguard against error and ensure that the ultimate punishment is only given to the worst of the worst.

Effective law enforcement requires citizens to have faith in the accuracy of the criminal justice system. And the fact is, unanimous capital juries are more reliable. **Since 2006, no unanimous jury verdict recommending death has been overturned by the Florida Supreme Court.** Requiring unanimity will not hamper the ability of prosecutors to obtain just sentencing results; rather, it will likely aid prosecutors in defending verdicts on appeal.

Furthermore, a unanimous jury requirement has not proven to be a hindrance to the implementation of the death penalty in other states. Texas, Virginia and other states sentence people to death via unanimous jury votes. In fact, Florida is an outlier. Delaware is the only other state that allows a simple majority of a jury to sentence a defendant to death. Alabama requires a 10-2 vote, and all other death-penalty states require unanimity.

Finally, the legislature should act as it is possible that Florida's death penalty law will be challenged in the U.S. Supreme Court as unconstitutional. In *Ring v Arizona*, the Supreme Court found that a jury must unanimously find the existence of an aggravating factor that would then make the defendant eligible for the death penalty. Many legal scholars believe that Florida law violates *Ring* because the judge – not the jury – makes the ultimate findings of aggravating factors. Florida can avoid litigation by doing what nearly every other state did after *Ring*: change its law to require a unanimous jury finding.

We urge you to pass Senate Bill 664/House Bill 139 and ensure a fair and reliable death penalty system in Florida.

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Member, Criminal Justice Committee
226 Senate Office Building
404 South Monroe Street
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Member, Criminal Justice Committee
318 Senate Office Building
404 South Monroe Street
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Senator Rob Bradley
Member, Criminal Justice Committee
208 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bradley:

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Vice Chair, Criminal Justice Committee
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