

Federal Court Rules Sex Offenders Cannot Be Denied Access to Facebook

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Unfortunately, what people think should happen and what the law requires are not always the same. The U.S. Court of Appeals for the Seventh Circuit recently made headlines when it ruled that an Indiana statute that [bans most registered sex offenders from using social networking websites](#), like Facebook, was unconstitutional.

The controversial law specifically prohibits certain sex offenders from “knowingly or intentionally us[ing]: a social networking web site” or “an instant messaging or chat room program” that “the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program.” The American Civil Liberties Union of Indiana challenged the statute on behalf of a class of unidentified sex offenders.

Ultimately, the Seventh Circuit overturned the law on [First Amendment](#) grounds, after concluding that the Indiana law was not narrowly tailored to serve the state’s interest. “It broadly prohibits substantial protected speech rather than specifically targeting the evil of improper communications to minors,” the opinion [in John Doe v. Prosecutor, Marion County, Indiana](#) states.

The appeals court also noted that “the Supreme Court has invalidated bans on expressive activity that are not the substantive evil if the state had alternative means of combating the evil.” In this case, the court found that there were other ways for the state to curb inappropriate communication between minors and sex offenders. It specifically noted that Indiana has other existing laws that punish “inappropriate communication with a child” and communication “with the intent to gratify the sexual desires of the person or the individual.”

The court further highlighted that laws infringing on First Amendment rights must be narrowly tailored. “Subsequent Indiana statutes may well meet this requirement, but the blanket ban on social media in this case regrettably does not.”

According to Indiana Attorney General Greg Zoeller, the state is reviewing the opinion and considering its legal options, including appeal. From a legislative perspective, Sen. John Waterman, who authored the overturned law, has pledged to come up with a new way to protect children from sex offenders online that will pass constitutional scrutiny.

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