



American Civil Liberties Union of Indiana

January 22, 2008

House Judiciary Committee
200 West Washington Street
Indianapolis, Indiana 46204

Re: House Bill 1134

Honorable Members of the House Judiciary Committee:

Since its introduction, our office has taken an interest in House Bill 1134, which—broadly speaking—criminalizes the use of certain Internet websites by individuals who have been convicted of a sex offense. Although sex offenders possess virtually no voice at the Statehouse, their lives have been influenced dramatically each session in the recent past that the General Assembly has convened. Simply put: it is becoming more and more difficult to be a sex offender these days.

House Bill 1134 represents the latest in a constant stream of legislation aimed at curtailing the rights of those who have been convicted of sex offenses. While these bills have been introduced—and passed—under the guise of protecting the public from those perceived to be “predators,” the simple fact of the matter is this: the more difficult it becomes for sex offenders to re-integrate themselves into society after completing their criminal sentences, the more likely it is that they will re-offend. Legislation that significantly curtails the rights of convicted sex offenders therefore possesses the ironic effect of actually *increasing* the likelihood that the public will again be jeopardized by those who have completed their criminal sentences.¹

Of course, unlike the typical bill concerning sex offenders, the import of HB 1134 lies outside mere registration requirements. Rather, its effect would be to significantly curtail the First Amendment rights of numerous individuals to associate with groups, organizations, and other persons over a vast array of issues.

The website Facebook.com, for instance, possesses a function whereby individual users may join together and form groups (either with their friends or with other users sharing particular

¹ Some of the most thorough studies that have been conducted in this area include the following: NGA Center for Best Practices, *Managing Convicted Sex Offenders in the Community* (2007), available at <http://www.nga.org/Files/pdf/0711SEXOFFENDERBRIEF.PDF>; Center for Sex Offender Management, *Managing the Challenges of Sex Offender Reentry* (2007), available at http://www.csom.org/pubs/reentry_brief.pdf; Jill S. Levenson & Leo P. Cotter, *The Effect of Megan’s Law on Sex Offender Reintegration*, 21 J. of Contemp. Crim. Justice 49 (2005); Lane Council of Governments, *Managing Sex Offenders in the Community: A National Overview* (2003).

interests) devoted to causes, hobbies, or activities. Among the groups that have been formed on that website are the following:

- “Legalize Public Urination” – a group of citizens concerned that public urination qualifies as a sex offense in some jurisdictions (53 members)
- “No on Proposition 83” – a group of citizens concerned that an Iowa referendum would curtail the rights of sex offenders (14 members)
- “Abolish the 2,000 foot residency law in Iowa” – a group of citizens concerned about the legality of an Iowa law restricting where sex offenders may live (12 members)
- “Sex Offenders Anonymous” – a group of citizens supporting and assisting in sex offender rehabilitation (10 members)
- “Consenting teenagers are not child molesters. Reform Sex Offender laws!” – a group of citizens concerned that consensual sex may result in mandatory registration (4 members)
- “Wrongfully Accused Sex Offenders” – a group of citizens who know at least one individual whom they believe to have been wrongfully accused of a sex offense (3 members)

While members of the Indiana General Assembly may agree or disagree with the political sentiment expressed within each group, it is beyond debate that individuals possess the constitutional right to possess and to express these sentiments. However, the protections of the First Amendment do not stop at political expression; rather, they extend as well to the association encompassed by the very act of banding together with other individuals over a common cause, over common interests, or over common beliefs. This act is at the very epicenter of our political being, and its contours extend not only to traditional political association but also to the relative anonymity of online association that has become increasingly popular with the influx of social networking sites such as those addressed by HB 1134.²

While certain First Amendment rights may certainly be restricted while an individual is incarcerated following conviction, these liberties are—and must be—restored as soon as that individual ventures beyond the prison gates. To contend otherwise would be to forever forgo the possibility of rehabilitation, to hold infallible the verdict of a criminal court, and to irreparably scar the fabric of liberty encompassed by the First Amendment.

It is thus with the utmost respect and diligence that our organization opposes the passage of HB 1134. While I regret that I am unable to attend the committee’s hearing on this bill, I would be both eager and willing to speak with any individual members concerning the propriety of the legislation. I may be reached at 317-635-4059, x231, or grose@aclu-in.org.

Truly Yours,

Gavin M. Rose
Director of Legislation

² See, e.g., *Ashcroft v. ACLU*, 542 U.S. 656 (2004).