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3-2-2015

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Recommended Citation

Schwartz, Rachel, "Creating a Safe Haven in the Online-Dating Community" (2015). *AEJ Blog*. 64.
<https://larc.cardozo.yu.edu/aelj-blog/64>

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Creating a Safe Haven in the Online-Dating Community

BY [RACHEL SCHWARTZ](#) / ON MARCH 2, 2015

Internet dating websites have become an increasingly popular way for people to meet their significant others. These websites provide an easily accessible way to engage in the dating world, in a time when lifestyles have become jammed packed with other obligations. Safety concerns accompany this increased usage because of the nature of these websites. Member profiles only provide a glimpse of the potential partner, and often times are false or misleading. A user may unknowingly be communicating with a sex offender, and not even know it. This interaction has the potential of leading to a sexual offense.

Steps at both the federal and state level have been taken to protect the public against potential threats of sex offenders. These laws are referred to as Megan's laws. These laws require that each state have a sex offender registry and require individuals convicted of sex crimes to register and enter certain information. Furthermore, states must have a notification system in place to alert people in the community of specific information regarding sex offenders in their community. A [national database](#) was created which compiles the information of each individual state into one common database that can be accessed by anyone across the fifty states.

States have also implemented residency restrictions. They vary from state to state, but generally prohibit sex offenders from entering, or being within a certain radius from schools, day cares and other recreational facilities.

There is currently no federal legislation that aims to combat the safety concerns that accompany online dating. Two states, Louisiana and Indiana, attempted to pass legislation that restricts sex offenders from social media entirely. Both statutes were [challenged](#) on a constitutional basis.

In *Doe v. Prosecutor, Marion County*, opponents of the Indiana statute argued that it violated the First Amendment.^[1] In order for a statute to withstand constitutional scrutiny it must be "narrowly tailored to the serve a significant government interest." The court held that the statute violated the First Amendment because it did not meet this standard. The court reasoned that sex offenders logging onto social media sites does not automatically lead to inappropriate communication with minors. Even though there is a possibility that access to social media may lead to this behavior, there is also a possibility that it will not. Furthermore, there is a range of activities that are now restricted that do not fall in the category of the asserted government interest, therefore it is overbroad. Even though the statute served a strong government interest, it was not narrowly tailored and therefore, unconstitutional.

A similar statute was determined to be unconstitutional in Louisiana.^[2] In *Doe v. Jindal* opponents challenged the statute on a First Amendment basis. The Louisiana statute was even broader than the Indiana statute. The blanket ban on social media sites not only included social networking sites, but also restricted access to information and news websites. The restriction to news and information websites was not necessary because this would not lead to sexual offenses. Therefore, the statute was not narrowly tailored to combat the evil.

In response to the constitutional challenge in *Jindal*, the Louisiana legislature amended the statute to target a narrower class of activities. The revisions to the statute include a detailed and more limited description of the websites that are considered social networking sites. This revision no longer restricts access to news and information websites, it only restricts access to websites that are more likely linked to the reoccurrence of sex offenses. Furthermore, the statute only restricts access to those who committed more egregious sex offenses. The revised Louisiana statute has not been challenged on a constitutional basis yet.

Louisiana has also implemented another law that requires those sex offenders who do not have restricted access to list their status on social media profiles.^[3] This statute has not encountered a constitutional challenge yet. Those who support the statute believe that it will stand up to a constitutional challenge because it is similar to community notification requirements that each state is required to have and community notification schemes have withstood constitutional challenges.

The nature of online dating websites creates a heightened risk for the occurrence of sex crimes and it is important that legislation is enacted to protect individual members of the online dating community. Thus far, the majority of states have not passed legislation restricting those who have committed sex crimes from accessing these websites. Therefore, federal legislation is needed to give an incentive to states to do so. In order for each state to receive federal funding, they should be required to restrict sex offender's access to online-dating websites, but each state will have discretion in deciding the manner in which they do so. The states in turn could pass their own legislation in conjunction with a framework that would survive constitutional challenges. In order to pass constitutional muster the state legislation must be narrowly tailored. To meet this requirement, the statute should restrict access to only Internet dating service providers, not social media in general. Furthermore, the statute, similar to that of Louisiana's statute, can restrict access to sex offenders who have committed specific crimes. This would ensure that the statute is narrowly tailored to those sexual offenses, which are proven to pose the highest risk. The federal legislation can also require those who were convicted of sex crimes, but do not fall within the restricted access group to post a notification on their personal profile. This type of legislation can help to further the state interest of protecting the community from repeated sex offenses.

[1] <http://www.cnn.com/2013/01/23/tech/sex-offenders-social-media/>

[2] <https://www.prisonlegalnews.org/news/2013/jan/15/louisiana-sex-offender-internet-restrictions-unconstitutional/>

[3] <http://www.cnn.com/2012/06/20/tech/louisiana-sex-offenders-social-media/>