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CIVIL RIGHTS GROUP QUESTIONS CONSTITUTIONALLY OF PROPOSAL

Albuquerque, NM / April 2, 2013—Reform Sex Offender Laws, Inc. (RSOL) plans to oppose Texas House Bill 23, a proposal that was recently filed by State Rep. Trey Martinez Fischer (D-San Antonio). The legislation would require all of Texas's 72,000 + registered sex offenders, whether or not still under supervision and whether or not the registerable offense involved a minor or the Internet, to post specific information, including identifying him or herself as a registered sex offender and giving other personal, identifying information on any and all social network sites the registrant chooses to use.

RSOL was quick to criticize this proposed law as unconstitutional and one that would likely be struck down in the courts.

RSOL believes that this proposal is overly broad because it would require a registered person to post such "Notices" on all social network sites, regardless of whether or not the site has a significant number of minors or even permits minors to join. Furthermore, it covers all persons required to register as a sex offender even though many have completed their court-ordered punishment and even though many had not committed crimes against minors nor were their offenses facilitated by misuse of the Internet.

RSOL believes that requiring such a person to post a "Notice" including specifics and details about a person's past conduct would chill that person's legitimate speech rights under the First Amendment. Does the bill's sponsor believe that a person no longer has the right to anonymously criticize any governmental action simply because that individual has been convicted of any type of sexual offense?

RSOL believes that laws which mandate that commercial entities require a user to convey a specific message as a condition of being on the network exceeds the government's authority and are facially unconstitutional.

Social networks constitute a vital communication link, which permits citizens to express alternative ideas, oppose their government, and organize their efforts. As such, laws that force a private entity to coerce a citizen to carry the government's message are facially invalid.

Social networks, such as Facebook, that cater to minors already have their own policies that prohibit registered sex offenders from accessing their networks. This new law is unnecessary because a simple notice from a concerned citizen already results in the deletion of the sex offender's account.

Contrary to what is commonly understood, registration as a sex offender is supposed to be a non-punitive, collateral consequence of a conviction for a sex offense. In fact, the US

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Supreme Court held registration to be constitutional because the Alaska requirements at the time did not impose any disability or restraint on the offender. *See Smith v. Doe*, 538 U.S. 84 (2003).

RSOL believes that if registration is to remain constitutional, registration schemes cannot impose any disability or restraint on a registered person's daily activities. We base that opinion on the court's finding that, "The Act imposes no physical restraint, and so does not resemble the punishment of imprisonment, which is the paradigmatic affirmative disability or restraint." *See Id* at 100.

In articulating RSOL's position, Executive Director Brenda Jones said, "Requiring that a person wear a scarlet letter when using any social networking would impose a significant restraint on his ability to communicate freely and anonymously on the Internet, and we believe that would clearly chill constitutionally protected speech."

Mary Sue Molner, head of RSOL's Texas affiliate, Texas Voices for Reason and Justice, emphasized the point in an interview with KENS-TV in San Antonio that the law is designed to target everyone on the registry even though few registrants had offenses involving the Internet and even fewer had situations involving predatory behavior. She added, "We've got to remember that almost all registrants have wives, families (and) children, so we're looking at, in a lot of cases, children (who) can be harmed because dad's information is out there just a little too much."

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