

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JOHN DOES 1-4 and JANE DOE,	)	
	)	
	)	No. 16 C 4847
Plaintiffs,	)	
	)	
v.	)	
	)	
LISA MADIGAN, Attorney General of the	)	Judge Norgle
State of Illinois, and LEO P. SCHMITZ,	)	Magistrate Judge Finnegan
Director of the Illinois State Police.	)	
	)	
Defendants.	)	

**PLAINTIFFS’ MOTION FOR EXPEDITED DISCOVERY  
AND TO SET A BRIEFING SCHEDULE AND HEARING ON  
PLAINTIFFS’ MOTION FOR A PRELIMINARY INJUNCTION**

Plaintiffs John Does 1–4 and Jane Doe, through counsel, respectfully move this Honorable Court to (1) grant them leave to conduct expedited discovery; (2) set a briefing schedule on Plaintiffs’ motion for a preliminary injunction; and (3) set a hearing date on Plaintiffs’ motion. In support thereof, Plaintiffs state as follows:

**Factual Background**

The Plaintiffs in this case are five individuals who are classified as “child sex offenders” under Illinois law. Dkt. 1, Complaint at ¶¶5–9. Plaintiffs have brought this action to challenge the constitutionality of certain Illinois statutes that regulate where they are permitted to be present. *Id.* at ¶1. Specifically, Plaintiffs challenge the following four statutes:

- (1) 720 ILCS 5/11-9.3(c), which prohibits a child sex offenders from being “associated with” or “present at” any “facility providing programs or services exclusively directed toward persons under the age of 18”;

- (2) 720 ILCS 5/11-9.3(c-2), which makes it unlawful for a child sex offender “to participate in a holiday event involving children under 18 years of age”;
- (3) 720 ILCS 5/11-9.4-1(b) and (c), which make it unlawful for a child sex offender or a sexual predator to “knowingly be present in any public park building or on real property comprising any public park” or to “knowingly loiter on a public way within 500 feet of a public park building or real property comprising any public park.”; and
- (4) 720 ILCS 5/11-9.3(b) which makes it unlawful for a child sex offender to “knowingly loiter within 500 feet of a school building or real property comprising any school while persons under the age of 18 are present in the building or on the grounds.”

*Id.* at ¶¶14–17.

### **Plaintiffs’ Constitutional Claims**

Plaintiffs contend that these statutes violate their constitutional rights in three ways. First, Plaintiffs contend that the statutes violate the Fourteenth Amendment guarantee of procedural due process because they are unduly vague, failing to provide fair notice of what is prohibited and making it likely that law enforcement officials will enforce the statutes arbitrarily. *Id.* at ¶¶ 70–72. Second, Plaintiffs contend that the statutes violate the Fourteenth Amendment guarantee of substantive due process because they impermissibly interfere with Plaintiffs’ ability to organize their family affairs and are not narrowly tailored to serve a compelling state interest. *Id.* at ¶¶ 73–76. Finally, Plaintiffs contend that the statutes violate their First Amendment rights because they are facially overly broad. *Id.* at ¶¶ 77–80.

Plaintiffs seek a preliminary injunction prohibiting Defendants from

enforcing these statutes. A preliminary injunction should be granted if (1) the movant establishes a likelihood of success on the merits; (2) movant will suffer an irreparable injury in the absence of injunctive relief; (3) the balance of hardships warrants injunctive relief; and (4) an injunction would not disserve the public interest. *Winter v. Natural Resources Defense Council*, 555 U.S. 7 (2008).

### **Discovery Needed**

As will be set forth fully in Plaintiffs' memorandum of law in support of their motion for a preliminary injunction, Plaintiffs believe that they will be able to satisfy each element of this standard. However, as set forth below, it is necessary for Plaintiffs to conduct limited initial discovery so the Court has an adequate record on which to consider the Plaintiffs' constitutional challenge. To fully brief a motion for a preliminary injunction, Plaintiffs first request limited initial discovery on the following topics:

- How Defendants interpret the statutes at issue and whether Defendants are aware of any limiting construction of the statutes;
- The rationales for the statutes; and
- The Defendants' standards and practices for enforcement of the statutes.

Plaintiffs respectfully request that the Court grant them leave to conduct written discovery on these topics and to take a deposition pursuant to Fed. R. Civ. P. 30(b)(6) on an expedited basis so that the parties have a sufficient evidentiary record on which to brief Plaintiffs' motion for a preliminary injunction. Plaintiffs believe that a period of 60 days would provide the parties sufficient time to conduct the necessary discovery. Plaintiffs also request that the Court set a briefing

schedule and hearing date on Plaintiffs' motion for a preliminary injunction.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court (1) grant them leave to conduct expedited discovery; (2) set a briefing schedule on Plaintiffs' motion for a preliminary injunction; and (3) set a hearing date on Plaintiffs' motion.

Respectfully submitted,

/s/ Adele D. Nicholas

/s/ Mark G. Weinberg  
*Counsel for Plaintiff*

Mark G. Weinberg  
3612 N. Tripp Avenue  
Chicago, Illinois 60641  
(773) 283-3913

Adele D. Nicholas  
4510 N. Paulina Street, 3E  
Chicago, Illinois 60640  
(847) 361-3869