**Federal judge: Minnesota sex offender program unconstitutional**

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Dan Gustafson, a lawyer representing the committed sex offenders, applauded U.S. Judge Donovan Frank's ruling, saying it "reaffirms that all people, no matter how disliked they are ... are entitled to constitutional protection."

Jennifer Simonson | MPR News

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A federal judge Wednesday ruled it's unconstitutional for Minnesota to keep civilly committed sex offenders locked up indefinitely, setting the stage for major changes to the Minnesota Sex Offender Program.

"The stark reality is that there is something very wrong with this state's method of dealing with sex offenders," wrote U.S. District Judge Donovan Frank.

His decision does not mean that all those committed will be immediately released.

The current state facilities "will not be immediately closed," Frank wrote. However, he made it clear he wanted to work quickly, ordering a pre-hearing conference for Aug. 10 "to fashion suitable remedies."

State officials quickly sought to assure the public that the ruling would not bring the immediate release of offenders and that the state would continue to defend its law.

"We continue to believe that both the Minnesota Sex Offender Program and the civil commitment statute are constitutional," Gov. Mark Dayton said in a statement suggesting the state plans to appeal the decision.

* **Feb. 2015:**[Trial may bring changes to sex offender program](http://www.mprnews.org/story/2015/02/06/court-case-changes-sex-offender-program)

Observers, though, said the ruling repudiates the way the state treats civilly committed sex offenders.

"It's a sweeping condemnation of this program," said William Mitchell College of Law Dean Eric Janus, who sits on the state's sex offender civil commitment advisory task force.

Frank, he said, knows that "in order to fix this problem, he's going to need the Legislature, the governor, the bureaucracy, the infrastructure of the state to become involved," Janus added. "What he's trying to do is set that up so that the complex changes that need to take place can be agreed to by the key players."

The judge has the power to force changes if he feels the state is dragging its feet, but Frank is "going about it in a way that is attempting to respect the political leaders of the state," Janus said.

Some state lawmakers viewed the ruling as Frank tossing the controversial program back to the Legislature.

"He would rather have our name on the label of releasing them (committed offenders) into less restrictive means than his name, so he wants the Legislature to fix it," said Rep. Tony Cornish, R-Vernon Center.

* **Feb. 2015:**[State prepares for release of more sex offenders](http://www.mprnews.org/story/2015/02/08/sex-offender-program-trial)



The Minnesota sex offender treatment program runs a high-security facility in Moose Lake, Minn.

Martiga Lohn | AP 2010

More than 700 civilly committed sex offenders had sued the state claiming it was unconstitutional to keep them locked up indefinitely and that they don't get adequate treatment from the program run by the Minnesota Department of Human Services.

Most were court-ordered to receive sex offender treatment after they finished their prison sentences, a process called civil commitment. Offenders are confined at treatment facilities in Moose Lake, Minn., and St. Peter, Minn.

Since it began in the mid-1990s, only three people have been provisionally released from the program, meaning they are released, but still are under supervision. One of those went back in because he violated the terms of his release.

No one has been unconditionally released from the program.

Of the 715 currently in the program, 67 clients are in the last phase of treatment, the highest number there have ever been in the last step.

There are also 67 clients in the program for offenses they committed as juveniles.

Dan Gustafson, a lawyer representing committed sex offenders, applauded the federal ruling, saying it "reaffirms that all people, no matter how disliked they are ... are entitled to constitutional protection."

Craig Bolte, a committed offender who was part of the suit, said clients were overjoyed at news of the judge's decision.

"The atmosphere here is just amazing," said Bolte, who was committed to the Moose Lake facility in 2007.

Bolte, 28, was put into a Hennepin County juvenile sex offender program at age 15 for sexually abusing an 11-year-old. When that came to an end, he was civilly committed to the sex offender program, where he's been ever since.

Bolte says he's remorseful for his actions as a teenager, but he feels he shouldn't still be in the program.

I've never seen so many happy people. I literally have seen people so happy they've been crying tears of joy," he said. "I truly see this leading to release."

In its court filings, attorneys for the state argued the sex offender program doesn't violate constitutional rights and employs experienced clinical professionals who exercise "good faith judgment" and provide "comprehensive sex offender treatment according with standard practices."

The program's been politically charged for years. In 2011, the state Office of the Legislative Auditor reported "significant inconsistencies in the commitment process" and suggested housing some offenders in "alternative settings."

* **Feb. 2013:**[Sex offender program continues to grow, as state faces court order to change](http://www.mprnews.org/story/2013/02/22/news/sex-offender-program)

However, there's never been a consensus among Minnesota lawmakers on how to fix the program through legislation. Legislators have been waiting to see how the case played out in federal court.

Frank, who has made clear he has problems with the program, heard testimony from both sides in February and March.

Over time, Frank has reprimanded the Minnesota Legislature, saying lawmakers had to do something about a program he called "draconian" and in need of "substantial changes."

"This judge has sent a number of clear signals over the last several years about his concern for the constitutionality of this program," Janus said on MPR News Wednesday.

"It's clear that the evidence he heard at this trial confirmed his very clear concerns about the program."

The total budget for the program in 2015 is $80.9 million, according to the human services department.

Both sides agree there are many clients in the program who need to continue to get treatment. But a court appointed panel testified that several offenders, who were committed for juvenile offenses, should be released from the program.

Advocates for sexual violence victims hope to see a new system emerge that allows due process along with victim support.

"We want to make sure that rehabilitation is a really big part of this conversation for sex offenders," said Caroline Palmer of the Minnesota Coalition Against Sexual Assault.

"We want to see a system that works well for offenders because if they are coming back into the community, they pose a risk if they don't have support that can help them succeed as a productive member of society, she said.

*MPR News associate digital producer Emily Kaiser contributed to this report.*