

OFFICE OF THE ATTORNEY GENERAL

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BILL PRYOR
ATTORNEY GENERAL
STATE OF ALABAMA

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ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (334) 242-7300

Honorable H. Mac Gipson, Jr.
Member, House of Representatives
1119 Pates Mill Lane
Prattville, Alabama 36067

Community Notification Act –
Residence Requirements – Relatives
– Code Section 15-20-22

In amending the Community Notification Act, the Legislature made only one limited exception to the prohibition against a convicted sex offender living with a minor. This exception applies only to a "parent." The term "parent" as used in the Community Notification Act does not include a stepparent.

Dear Representative Gipson:

This opinion of the Attorney General is issued in response to your request.

QUESTION

May a criminal sex offender establish a new residence with his wife and her child from a previous marriage?

FACTS AND ANALYSIS

Your question concerns section 15-20-22(g) of the Code of Alabama. This section provides:

No criminal sex offender shall be allowed to establish a residence or any other living accommodation where a minor resides. Notwithstanding the foregoing, a criminal sex offender may reside with a minor if the criminal sex offender is the parent of the minor, unless one of the following conditions applies:

- (1) The criminal sex offender's parental rights have been or are in the process of being terminated as provided by law.
- (2) Any minor or adult child of the criminal sex offender was a victim of a criminal sex offense committed by the criminal sex offender.

ALA. CODE § 15-20-22(g) (Supp. 1998) (emphasis added). Prior to the 1998 amendment to this section, a criminal sex offender could not establish a residence with his or her minor children under any condition. Language was added, however, to allow a parent to establish a residence with his or her child with certain exceptions.

Your question concerns a stepparent relationship. The only exception to the prohibition against living with a minor is if the criminal sex offender is the parent of the minor. The Community Notification Act does not provide a definition of "parent," and there is no case law interpreting this section of the Community Notification Act. Under the established rules of statutory construction, however, words used in a statute must be given their plain, ordinary, and commonly understood meaning. Ex parte T.B., 698 So. 2d 127, 130 (Ala. 1997). "Parent" is commonly defined as "the lawful father or mother of a person." BLACK'S LAW DICTIONARY 769 (6th ed. 1991). The term includes the biological parents as well as adoptive parents. Id. A stepparent is generally not considered a "parent," hence the prefix "step." Generally, a stepparent does not have the legal rights, obligations, and duties towards a child, as does a parent.

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Based on the plain language of section 15-20-22(g), it is the opinion of this Office that the term "parent" does not include the stepparent relationship.

CONCLUSION

In amending the Community Notification Act, the Legislature made only one limited exception to the prohibition against a convicted sex offender living with a minor. This exception applies only to a "parent." The term "parent" as used in the Community Notification Act does not include a stepparent.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Wendi B. Molz of my staff.

Sincerely,

BILL PRYOR
Attorney General

By:



CAROL JEAN SMITH
Chief, Opinions Division

BP/WBM
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