

OFFICE OF THE ATTORNEY GENERAL



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Honorable Martha Elrod
City of Gadsden, City Clerk
P.O. Box 267
Gadsden, Alabama 35999

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

The provisions of the Community Notification Act apply to a criminal sex offender convicted prior to the implementation of the Act, when he or she establishes a new residence.

When a municipality has actual notice from a criminal sex offender, the municipality should follow the notification procedures as prescribed in the Community Notification Act.

After receiving actual notice from a criminal sex offender, the municipality has five days to implement the notification procedures.

Pursuant to section 15-20-22(a)(3), the sheriff is required to notify all persons who have legal residence within 2000 feet of the residence of the criminal sex offender.

Honorable Martha Elrod
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Dear Ms. Elrod:

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

QUESTION 1

Do the residence and notification requirements of the Community Notification Act apply to an individual convicted and released prior to May 29, 1996, the effective date of the Community Notification Act?

FACTS AND ANALYSIS

Your request states that an individual has presented himself for registration with the Police Department as a sex offender. The individual was convicted in the State of Washington of rape in the third degree, which is a Class C felony under Washington law, and served a sentence in the county jail from February 7, 1995, until June 15, 1995. In order for the Community Notification Act to apply, an individual must be convicted of one of the enumerated offenses. ALA. CODE § 15-20-21 (Supp. 1998). The enumerated offenses are violations of the Alabama criminal code. If, however, the crime committed in another state would constitute one of the listed offenses, the Community Notification Act applies. ALA. CODE § 15-20-21(a)(5)(l). A determination would have to be made whether rape in the third degree under Washington law, if committed in Alabama, constitutes one of the enumerated crimes.

This Office has consistently stated that the provisions of the Community Notification Act apply to a criminal sex offender convicted prior to the implementation of the Act, when he or she establishes a new residence. Attorney General's Opinion to Honorable Robert Owens, dated June 16, 1998, A.G. No. 98-00164; Attorney General's Opinion to William C. Young, dated September 20, 1996, A.G. 96-00320. The Community Notification Act applies, regardless of whether the individual was convicted in Alabama or another state.

CONCLUSION

The provisions of the Community Notification Act apply to a criminal sex offender convicted prior to the implementation of the Act, when he or she establishes a new residence.

QUESTION 2

If the City Police Department has not received any prior formal or informal notice, much less the required 30-day notice, from any authority, but has actual notice from the offender or otherwise that an individual covered by the Community Notification Act has come or will be coming to reside in the municipality, is the City required to notify its residents?

FACTS, ANALYSIS, AND CONCLUSION

When the municipality has actual notice from the offender, the municipality should follow the notification procedures as prescribed in the Community Notification Act. If notice is received from someone in the community other than the offender, the City should verify the claim with the appropriate authorities.

QUESTION 3

If the answer to question 2 is yes, how much time does the City have to provide the required notice to residents from the time of actual notice that the offender has been or will be residing in the municipality?

FACTS, ANALYSIS, AND CONCLUSION

The Community Notification Act does not specifically address this question. Under the Act, however, when a municipality receives notification from the responsible agency, it has five days to implement the notification procedures. ALA. CODE § 15-20-22 (Supp. 1998). The same time

limit should apply when the municipality receives actual notice from the offender. Therefore, after receiving actual notice from the offender, the municipality has five days to implement the notification procedures.

QUESTION 4

If the proposed residence of a convicted sex offender is outside the corporate limits of the municipality (and not within the corporate limits of any other municipality with a resident population of 5000 or more), but there are residences within the corporate limits that are within 1500 feet of the proposed residence, is the City required by the Community Notification Act to notify its residents?

FACTS, ANALYSIS, AND CONCLUSION

When the proposed residence of a sex offender is in a municipality with a resident population of less than 5000 or in an unincorporated area, the sheriff of the county is responsible for notifying surrounding residents. ALA. CODE § 15-20-22(a)(3) (Supp. 1998). The Code provides in pertinent part:

[T]he sheriff of the county in which the released criminal sex offender intends to reside shall notify all persons who have legal residence within 2,000 feet of the declared residence of the criminal sex offender. . . .

ALA. CODE § 15-20-22(a)(3) (Supp. 1998).

The sheriff is required to notify all persons who have legal residence within 2000 feet of the residence of the criminal sex offender. There is no exception made for people who live within the corporate limits of a city. Therefore, the sheriff is responsible for notifying those individuals. The city is not responsible for notifying its residents.

QUESTION 5

Does the answer to any of these questions vary if the criminal sex offender is coming to the declared or proposed residence from another state rather than relocating within Alabama?

FACTS, ANALYSIS, AND CONCLUSION

As stated above, the Community Notification Act applies, regardless of whether the individual was convicted in Alabama or another state.

QUESTION 6

If notification is not now required for this individual, would notification be required if he relocates to any other address within the municipality?


FACTS, ANALYSIS, AND CONCLUSION

As stated above, notification is required for the individual if he committed one of the enumerated offenses. The notification provisions apply each time a criminal sex offender establishes a new residence.

I hope this opinion answers your questions. 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

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