

OFFICE OF THE ATTORNEY GENERAL

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Honorable Larry Amerson
Sheriff, Calhoun County
400 West 8th Street
Anniston, Alabama 36201

Community Notification Act – Residency Requirements

Based on the plain language of the statute, a criminal sex offender can establish a residence with his biological child when the victims of his criminal sex offenses were his stepchildren, and the criminal sex offender's parental rights have not been or are not in the process of being terminated.

Under section 15-20-22(g) of the Code of Alabama, there is a difference in the relationship between a stepparent and stepchild and in the relationship between a biological parent and child.

Dear Sheriff Amerson:

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

QUESTION

Whether a sex offender convicted of rape and sodomy upon his two stepdaughters can

reside in a home with his biological child. Furthermore, is the relationship between a step-parent and stepchild considered the same as a biological relationship between a parent and child?

FACTS AND ANALYSIS

The Alabama Community Notification Act is found in section 15-20-20, *et seq.*, of the Code of Alabama. Section 15-20-22(g) specifically 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).

It is clear that a criminal sex offender cannot establish a residence with his minor children if any of his minor or adult children were victims of his criminal sex offense. Your question concerns a criminal sex offender's ability to establish a residence with his minor child when the victims of his criminal sex offenses were his stepchildren rather than his biological children.

The Community Notification Act does not provide a definition of "child," 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). One's child generally refers to a biological or adopted child. Generally, a parent has legal rights, obligations, and duties towards his or her child, but not toward a stepchild.

This Office has previously determined that the word "parent," as used in section 15-20-22(g) of the Code of Alabama, applies only to a biological or adoptive parent and does not apply to a stepparent. Attorney General's Opinion to Honorable H. Mac Gipson, Jr., dated September 9, 1998, A.G. 98-00214. Therefore, under section 15-20-22(g) of the Code of Alabama, there is a difference in the relationship between a stepparent and stepchild and in the relationship between a biological parent and child. Based on the plain language of the statute, a criminal sex offender can establish a residence with his biological child when the victims of his criminal sex offenses were his stepchildren.


CONCLUSION

A criminal sex offender can establish a residence with his biological child when the victims of his criminal sex offenses were his stepchildren, and the criminal sex offender's parental rights have not been or are not in the process of being terminated.

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

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