

OFFICE OF THE ATTORNEY GENERAL

99-00038



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ATTORNEY GENERAL
STATE OF ALABAMA

November 13, 1998

ALABAMA STATE HOUSE
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MONTGOMERY, ALABAMA 36130
AREA (334) 242-7300

Honorable Greg Wren
Member, Alabama House of Representatives
4211 Carmichael Road
Montgomery, Alabama 36106

Community Notification Act – Residency Requirements

Pursuant to section 15-20-22 of the
Code of Alabama, a criminal sex
offender is prohibited from estab-
lishing a residence within 1000 feet
of a foster family home regulated
and licensed by the Department of
Human Resources.

Dear Representative Wren:

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

QUESTION

May a criminal sex offender establish a
residence within 1000 feet of a foster family
home regulated and licensed by the Department
of Human Resources?

FACTS AND ANALYSIS

The Community Notification Act is found in section 15-20-20 through section 15-20-24 of the Code of Alabama. Section 15-20-22(e) of the Code of Alabama provides:

No criminal sex offender shall be allowed to establish a residence or accept employment within 1,000 feet of the property on which any public school, private or parochial school, licensed daycare center, or any other child care facility is located.

ALA. CODE § 15-20-22(e) (Supp. 1998) (emphasis added).

The Community Notification Act does not provide a definition of "child care facility." In implementing the Community Notification Act, it is imperative that law enforcement officials, as well as criminal sex offenders, be able to readily determine whether a child care facility is located within 1000 feet of a proposed residence. In addition, law enforcement officials must have a way of determining whether a residence qualifies as a child care facility or is merely a place where children are periodically kept, such as for babysitting purposes. *

This Office has previously determined that the term "child care facility" as used in the Community Notification Act only refers to facilities that are required to be licensed or certified by the Department of Human Resources or other agency, or those facilities specifically exempted by section 38-7-3 of the Code of Alabama. Attorney General's Opinion to Honorable Joe W. Whisante, dated November 13, 1998.

Foster family homes are required to be licensed by the Department of Human Resources. See ALA. CODE § 38-7-1, et seq., (1992 & Supp. 1998). The Code of Alabama defines "foster family home" as:

A child-care facility in a residence of a family where the family receives a child or children, unrelated to that family, for the purpose of providing family care or therapeutic family care and training, or transitional living program services on a full-time basis. . . .

ALA. CODE § 38-7-2(8) (Supp. 1998).

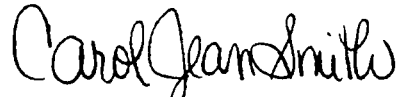
CONCLUSION

Based on the foregoing, it is the opinion of this Office that a criminal sex offender is prohibited from establishing a residence within 1000 feet of a foster family home regulated and licensed by the Department of Human Resources.

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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