

OFFICE OF THE ATTORNEY GENERAL

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JAN 25 1999

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Honorable David Barber
District Attorney
Jefferson County District Attorney's Office
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Community Notification Act – Residency Requirements

The law does not prohibit a criminal sex offender from residing within 1000 feet of his or her victim; instead, the law prohibits a criminal sex offender from establishing a residence within 1000 feet of his or her victim.

Dear Mr. Barber:

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

QUESTION

Under section 15-20-22(f) of the Code of Alabama, a criminal sex offender shall not be allowed to establish a residence within 1000 feet of the property where his victim resides. In the situation described, would the defendant be deemed in violation of this provision where he is returning to a residence he had previously established?

FACTS, ANALYSIS, AND CONCLUSION

In your request you relate the following fact situation: "A defendant plead guilty to Sexual Abuse 2 and received a ninety-day sentence, which was suspended, and he was placed on probation for twenty-four months. The defendant has lived at the same residence for many years. The victim in the case is the child of a neighbor who lives less than 1000 feet from the defendant's residence."

Section 15-20-20, *et seq.*, of the Code of Alabama is commonly referred to as the Community Notification Act. Section 15-20-22(f) of the Code of Alabama provides:

No criminal sex offender shall be allowed to establish a residence or any other living accommodation within 1,000 feet of the property on which any of his or her former victims, or the victims' immediate family members reside nor shall the criminal sex offender be permitted to willfully or knowingly come within 100 feet of any of his or her former victims, except as elsewhere provided by law, or make any visual or audible sexually suggestive or obscene gesture, sound, or communication at or to the former victim.

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

The law does not prohibit a criminal sex offender from residing within 1000 feet of his or her victim; instead, the law prohibits a criminal sex offender from establishing a residence within 1000 feet of his or her victim. If the criminal sex offender established his or her residence prior to committing the offense, and subsequent to committing the offense has remained in the residence, then the law does not prohibit the sex offender from residing within 1000 feet of his or her victim. If the criminal sex offender had left his or her residence for a period of time subsequent to committing the offense, and established a residence elsewhere, the criminal sex offender could not return and once again establish his or her residence within 1000 feet of his or her victim.

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The law also clearly prohibits a criminal sex offender from knowingly or willfully coming within 100 feet of his or her victim.

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:

A handwritten signature in cursive script, appearing to read "Carol Jean Smith".

CAROL JEAN SMITH
Chief, Opinions Division

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