



2000-184

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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July 6, 2000

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Honorable James Hayes, Sheriff
Etowah County Sheriff's Office
827 Forrest Avenue
Gadsden, Alabama 35901

Community Notification Act - Sex
Offenders - Residence Requirements
- Juveniles - Notices

The notification process for a juvenile sex offender who has attained the age of majority is the same as that for an adult sex offender.

A residence established by a sex offender who was adjudicated as a juvenile or a youthful offender prior to the effective date of the Community Notification Act remains legal, but future changes in residence may only be made in compliance with the notice requirements of the Act.

No order is necessary for the notice provisions of the Act to be applicable to a sex offender, whether adjudicated as a juvenile or youthful offender or convicted as an adult. A judge has no authority to exempt a person from the requirement that he or she comply with the Act.

Dear Sheriff Hayes:

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

QUESTION ONE

Under section 15-20-29 of the Code, what is the notification procedure for juveniles or youthful offenders?

FACTS AND ANALYSIS

Section 15-20-29 of the Code of Alabama sets forth the requirements of the Community Notification Act ("the Act") that must be complied with prior to the release of a juvenile criminal sex offender. Generally, prior to time that a juvenile sex offender reaches the age of majority, his parent, custodian, or guardian has an obligation to comply with the notice provisions of the Act on the juvenile's behalf and can incur criminal liability for their failure to do so. Your questions center around the proper application of the Act once a juvenile criminal sex offender reaches the age of majority and, more specifically, the correct application of section 15-20-29(c), which provides:

When a juvenile criminal sex offender becomes the age of majority, the parent, guardian, or custodian of the juvenile criminal sex offender shall no longer be subject to the requirements under subsections (a) and (b), and the juvenile criminal sex offender shall instead be subject to Section 15-20-22 or Section 15-20-23 as though he were an adult criminal sex offender. Community notification, however, shall be allowed, unless so ordered by the sentencing court.

ALA. CODE § 15-20-29(c) (1999). This section transfers all responsibility to comply with the notification provisions of the Act to the juvenile once he or she attains the age of majority. It makes the juvenile subject to sections 15-20-22 and 15-20-23 of the Code of Alabama. The syntax of the final sentence of this section is such that its meaning and application are not clear. This sentence notwithstanding, however, the section is clear that juvenile sex offenders must make the same disclosures under the Act as an adult.

Section 15-20-22 requires that the sex offender, thirty days prior to his or her release from incarceration or treatment resulting from a

conviction for a criminal sex offense, declare, in writing, the address at which he or she will reside upon release. Once this information is received, it must be forwarded to the Criminal Justice Information Center, which will forward it on to the Federal Bureau of Investigation. Additionally, depending upon whether the offender will reside in Alabama or in another state, the following steps must be taken: If the offender expresses an intent to reside outside of Alabama, the information must be forwarded to the appropriate officials in the other state. If the offender intends to reside in Alabama, the information must be sent to the Attorney General, the Director of the Department of Public Safety, the district attorney and the sheriff in the county where the offender intends to reside, and the chief of police in the municipality where the offender intends to reside.

Section 15-20-23 governs the process an offender must follow if he or she wishes to change his or her legal residence. This section requires that a notice of intent to move be provided to the sheriff of the county or the chief of police of the municipality where he or she resides at least thirty days prior to moving. The establishment of a new residence occurs, under this law:

(1) Whenever that adult criminal sex offender is domiciled for five consecutive days or more.

(2) Whenever that adult criminal sex offender is domiciled following his or her release from a period of incarceration imposed as a result of a conviction for a criminal sex offense, regardless of whether that criminal sex offender has been domiciled at the same location prior to the time of conviction.

ALA. CODE 15-20-23 (1999).

CONCLUSION

Under these provisions, the notification process for a juvenile sex offender who has attained the age of majority is the same as that for an adult sex offender.

QUESTION TWO

If a juvenile was sentenced prior to the most recent changes in the law, are they subject to notification?

FACTS AND ANALYSIS

This Office has previously considered the applicability of changes to the Act to persons convicted prior to the effective date of the changes and opined that:

Like the current Community Notification Act, Act No. 98-489 is not expressly retroactive. The restrictions in the Community Notification Act would, however, apply to a criminal sex offender convicted prior to the passage of the 1996 Community Notification Act upon his change of residence.

A.G. Opinion No. 98-00164 dated June 16, 1998, to Honorable Robert Owens, Shelby County District Attorney.

CONCLUSION

The Community Notification Act applies to juveniles sentenced prior to the Act's recent amendment. Such juveniles, upon reaching the age of majority, become subject to community notification if they change their place of residence.

QUESTION THREE

Must an order be sought from the sentencing judge regarding whether notice is to be given before notice is made?

FACTS AND ANALYSIS

Section 15-20-29 provides that, upon the attainment of majority, the notice provisions of the Act become applicable to juveniles convicted of criminal sex offenses. Nowhere in the Act is a judge given the authority to suspend the notice provisions of the Act.

CONCLUSION

No order is necessary for the notice provisions of the Act to be applicable to a sex offender who has reached the age of majority, whether adjudicated as a juvenile or as a youthful offender or convicted as an adult. A judge has no authority to exempt a person from the requirement that he or she comply with the Act.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Scott Rouse of my staff.

Sincerely,

BILL PRYOR
Attorney General
By:



CAROL JEAN SMITH
Chief, Opinions Division

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