

# OFFICE OF THE ATTORNEY GENERAL



2000-041

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December 7, 1999

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**Sex Offenders—Public Safety, Department of—Residence Requirements**

The 1999 amendments to the Community Notification Act have not significantly changed which events trigger the enforcement of the Act's notification and residency provisions.

The primary events that will invoke the Act's notification provisions are an adult criminal sex offender's release or transfer of residence.

Community notification will generally be required whenever an adult criminal sex offender is released from imprisonment, is placed on probation or parole, or is otherwise placed in a situation giving him or her free access to the public.

The Act's notification and residency provisions will generally be invoked whenever an adult criminal sex offender domiciles himself or herself at a location for five or more days or following his or her release from a

period of incarceration imposed as a result of a conviction for a criminal sex offense.

Community notification will generally be invoked whenever a criminal sex offender changes his or her name.

A one-time adult criminal sex offender having only a single victim will be completely exempted from the Act upon the lapse of 25 years from the date of his or her release.

An adult criminal sex offender convicted prior to the Community Notification Act's implementation on May 29, 1996, shall be exempt from the Act's notification and residency provisions until such time as he or she establishes a new residence.

Dear Colonel Alexander:

This opinion is issued in response to your request for an opinion from the Attorney General on behalf of the Department of Public Safety.

#### QUESTION

When do adult criminal sex offenders become subject to the notification and residency provisions of Act No. 99-572?

#### FACTS AND ANALYSIS

In its most recent session, the Alabama Legislature substantially amended the Community Notification Act ("the Act"). See 1999 Ala. Acts No. 99-572 (codified at ALA. CODE §§ 15-20-21 through -37). The amendments to the Community Notification Act, which became effective on September 1, 1999, were primarily intended to clarify certain provisions of the Act and to change how juveniles and youthful offenders are treated under the Act. Pertinent to the question now posed, however, the

1999 amendments have not significantly changed which events trigger the enforcement of the Act's notification and residency provisions.

The primary events that will invoke the Act's notification provisions are an adult criminal sex offender's release or transfer of residence. That provision of Act No. 99-572, codified at section 15-20-25(a) of the Code of Alabama, specifies that notification is to be effected within five business days after notice is provided of an adult criminal sex offender's release or intent to transfer residence. Similarly, the Act's residency restrictions, at sections 15-20-26(a), (b), and (c), will be contingent upon an adult criminal sex offender establishing a residence. Notably, these triggering events do not significantly differ from those provided under the 1998 version of the Act.

For adult criminal sex offenders, "release," as defined in section 15-20-21(6), includes "[r]elease from a state prison, county jail, or municipal jail, . . . or placement on probation or parole or aftercare, or placement into any facility or treatment program that allows the offender to have unsupervised access to the public." ALA. CODE § 15-20-21(6) (Supp. 1999). Thus, community notification will generally be required whenever an adult criminal sex offender is released from imprisonment, is placed on probation or parole, or is otherwise placed in a situation giving him or her unfettered access to the public.

As provided in the newly amended Act, an adult criminal sex offender will be considered to have "established a residence" whenever either of two events occur. The first, set out in section 15-20-23(b)(1), is when an offender is domiciled at a particular residence for five consecutive days or more. The second, set out in section 15-20-23(b)(2), somewhat broadening the 1998 Act's definition of "establishing a residence," is when an offender is domiciled following a period of incarceration imposed as a result of a conviction for a criminal sex offense, regardless of whether the offender had been domiciled at the same location prior to his or her conviction. Thus, both the Act's notification and residency provisions will generally be invoked whenever an adult criminal sex offender domiciles himself or herself at a residence for five or more days or following his or her release from a period of incarceration imposed as a result of a conviction for a criminal sex offense.

The 1999 amendments to the Act add one other, unlikely, triggering event for the Act's notification requirements. As set out in section 15-20-36, community notification will generally be invoked whenever a criminal sex offender changes his or her name.

Although the notification and residency provisions of the Act are generally invoked whenever an adult criminal sex offender is released, establishes a residence, or changes his or her name, the 1999 amendments place certain limitations on these triggering events. Most notably, the provision at section 15-20-33(a) specifies that an adult criminal sex offender shall only be subject to the Act for a period of 25 years from the date of his or her release, provided that he or she has not been convicted of multiple criminal sex offenses or for a criminal sex offense involving multiple victims. Thus, a one-time offender having only a single victim will be completely exempted from the Act upon the lapse of 25 years from the date of his or her release.

Also, the provision at section 15-20-33(c) provides that an adult criminal sex offender convicted prior to the Community Notification Act's implementation on May 29, 1996, shall be exempt from the Act's notification and residency provisions until such time as he or she establishes a new residence. This portion of the 1999 amendments was intended to clarify that the Act's provisions should not be enforced against offenders who have long-established residences within their communities and have not relocated since the Act's implementation. Notably, however, this exemption will not be applicable to most offenders already in incarceration, due to the fact that, upon their release, the Act will deem them to be establishing new residences. See Attorney General's Opinion to Honorable Michael W. Haley, Commissioner, Department of Corrections, dated September 2, 1999, A.G. No. 99-00274.

### CONCLUSION


In sum, the 1999 amendments to the Community Notification Act have done little to change which events trigger the Act's notification and residency requirements for adult criminal sex offenders. To invoke community notification, an offender must be released, transfer his or her residence, or change his or her name. To invoke the Act's residency provisions, an offender must establish a residence. In any event, however, a one-time offender having only a single victim is exempted from the Act upon the lapse of 25 years from the date of his or her release. Also, for those offenders convicted prior to the Act's implementation on May 29, 1996, the Act's provisions are only applicable to them when they establish a new residence.

Honorable James H. Alexander  
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I hope this sufficiently answers your question. If this Office can be of further assistance, please contact Scott L. Rouse of my staff.

Sincerely,

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By:



CAROL JEAN SMITH  
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