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Community Notification Act — Juveniles

Juvenile criminal sex offenders adjudicated prior to the effective date of the Act are subject to the registration requirements of the Act.

Juvenile criminal sex offenders adjudicated prior to the effective date of the Act are subject to the community notification provisions of the Act, but notification may only be effected at the time of a juvenile offender's release, and then only if ordered by the sentencing court.

No juvenile criminal sex offender is subject to the Act's residency restrictions.

Juvenile criminal sex offenders who relocate to Alabama from other states are not required to register their intended places of residence under the Act.

The Act does not provide for community notification when a juvenile offender relocates from another state.

The phrase "licensed sex offender treatment program" merely refers to a treatment program that has been permitted, authorized, or approved by the Department of Youth Services.

Dear Ms. Brooks:

This opinion of the Attorney General is issued in response to your submission of questions regarding the application of the newly amended Community Notification Act, sections 15-20-20 through -37 of the Code of Alabama, to juvenile criminal sex offenders.

QUESTION 1

To what extent does the Community Notification Act apply to juveniles who were adjudicated prior to the effective date of the law?

FACTS AND ANALYSIS

In general, the Community Notification Act ("the Act") regulates criminal sex offenders by using three mechanisms: registration of offenders' places of residence, community notification, and residency restrictions. It is clear that the first of these, registration, would apply to any juvenile criminal sex offender, regardless of whether he or she was adjudicated prior to the effective date of the Act. Section 15-20-29(a) of the Code of Alabama provides that a juvenile criminal sex offender, or his or her parent, custodian, or guardian, must declare, in writing, the intended place of residence of the juvenile offender before his or her release. ALA. CODE § 15-20-29(a) (Supp. 1999). Subsequent to a juvenile offender's release, section 15-20-29(b) of the Code of Alabama requires a juvenile criminal sex offender, or his or her parent, custodian, or guardian, to register any intended changes of the juvenile offender's place of residence with the sheriff of the county of his or her current place of residence. Section 15-20-30 of the Code of Alabama also requires that juvenile criminal sex offenders annually verify their places of residence with local law enforcement agencies. Notably, these subsections do not, in any way, limit their application only to those juvenile criminal sex offenders adjudicated delinquent after the effective date of the Act. Therefore, a juvenile criminal sex offender adjudicated before the effective date of the Act would be subject to registration. The only exception, of course, would be if the juvenile criminal sex offender

fell under the general 10-year exemption provided in section 15-20-33(b) of the Code of Alabama.

Similarly, the juvenile notification provisions of the Act, found at section 15-20-29 of the Code of Alabama, do not, in any way, limit themselves to only apply to juvenile criminal sex offenders adjudicated delinquent after the effective date of the Act. Nonetheless, the context of section 15-20-29 makes it clear that, unlike adult criminal sex offenders, community notification may be effected for juvenile offenders only if ordered by the sentencing court and only at the time of the juvenile offender's release. *See* ALA. CODE § 15-20-29(c) (Supp. 1999). Thus, in practice, notification for juvenile criminal sex offenders who were adjudicated prior to the effective date of the Act may only be accomplished for those juvenile offenders who have not yet been released by the sentencing court. Pertinently, however, section 15-20-29(e) mandates that the sentencing court shall not relinquish its supervision over a juvenile criminal sex offender until such time as that juvenile offender has received treatment, a risk assessment has been completed, and the State has had an opportunity to petition for the application of community notification.

Finally, it is clear that juvenile criminal sex offenders are not subject to the Act's residency restrictions. Those restrictions, which are found at section 15-20-26 of the Code of Alabama, expressly apply only to adult criminal sex offenders.

CONCLUSION

Juvenile criminal sex offenders adjudicated prior to the effective date of the Act are subject to the registration requirements of the Act. Such juvenile offenders are also subject to the community notification provisions of the Act. Notification, however, may only be effected at the time of a juvenile offender's release, and then only if ordered by the sentencing court. No juvenile criminal sex offender is subject to the Act's residency restrictions.

QUESTION 2

To what extent does the Community Notification Act apply to juveniles who were adjudicated in another state, placed in treatment in that state, released from treatment, placed on probation, and sent to reside in Alabama? For purposes of this question, assume that the out-of-state juvenile is currently on probation and

is under courtesy supervision in Alabama via Interstate Compact on Juveniles.

FACTS AND ANALYSIS

This question poses a unique situation not specifically contemplated by the Act. Moreover, it appears that the Act would have little application to a juvenile criminal sex offender who has already been adjudicated in another state and has subsequently been released on probation.

Although registration generally applies to juvenile criminal sex offenders without regard to when they were adjudicated, the Act provides no mechanism for registering a juvenile offender's place of residence when such offender transfers his or her residence from another state. Therefore, a juvenile offender who moves to Alabama from another state is not obligated to register his or her place of residence to comply with the Act. That notwithstanding, a juvenile offender coming into Alabama from another state may be compelled by the laws of that state, or by the terms of a court order pertaining to such juvenile offender, to give notice and/or register with Alabama authorities upon relocating to Alabama. Once a juvenile criminal sex offender establishes his or her residence in Alabama, however, section 15-20-29(b) of the Code of Alabama would become applicable, thereby requiring the juvenile offender, or his or her parent, custodian, or guardian, to register subsequent changes of residence with the sheriff of the county of the juvenile offender's then-current place of residence.

Like registration, the Act provides no mechanism for effecting community notification when a juvenile criminal sex offender comes to Alabama from another state. Section 15-20-29 of the Code of Alabama makes it clear, however, that if notification is done at all for a juvenile offender, it must be done by order of the sentencing court at the time of the juvenile offender's release. Thus, for notification to be accomplished for a juvenile offender who has been adjudicated in another state, an order to that effect must be sought from the court of adjudication in that other state. In addition, such an order should be sought prior to the juvenile offender's release, because community notification for a juvenile offender is intended to be done concurrently with his or her release. Therefore, since the question now posed specifies a juvenile offender who has already been released on probation, *see* ALA. CODE § 15-20-21(6) (Supp. 1999), the time for effecting notification has already passed.

CONCLUSION

Juvenile criminal sex offenders who relocate to Alabama from other states are not required to register their intended places of residence under the Act. That notwithstanding, statutes or court orders from the state of a juvenile offender's origin could compel him or her to register with Alabama authorities. The Act also does not specifically provide for community notification when a juvenile offender relocates from another state. Notification cannot be done unless it is allowed by an order issued by the court of adjudication at the time of the juvenile offender's release.

QUESTION 3

What is considered to be a "licensed sex offender treatment program" under the Community Notification Act?

FACTS AND ANALYSIS

Section 15-20-27 of the Code of Alabama provides that "[u]pon adjudication of delinquency for a criminal sex offense, a juvenile criminal sex offender shall be required to receive sex offender treatment by a licensed sex offender treatment program. . . ." ALA. CODE § 15-20-27 (Supp. 1999). Section 15-20-29(a) requires such treatment provider to submit a "risk assessment" to the sentencing court sixty days prior to the projected release date of a juvenile criminal sex offender. In section 15-20-21(8), a "risk assessment" is defined, in part, as "[a] written report on the assessment of risk for sexually re-offending conducted by a sexual treatment program approved by the Department of Youth Services." ALA. CODE § 15-20-21(8) (Supp. 1999). Thus, it is evident, by reading the Act in its entirety, that both sections 15-20-21(8) and -27 refer to the same "treatment program," which must be licensed or approved by the Department of Youth Services. Moreover, there is nothing talismanic about the term "licensed." For something to be licensed merely means that it is permitted or authorized, which is no different than its being approved. *See In re State Tonnage Tax Cases*, 79 U.S. 204, 215 (1870). Thus, when the phrase "licensed sex offender treatment program" is used in the Act, it merely refers to a treatment program that has been permitted, authorized, or approved by the Department of Youth Services.

Honorable Ellen Brooks
Page 6

CONCLUSION

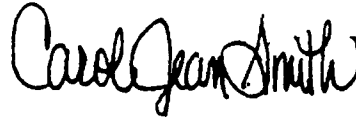
The phrase "licensed sex offender treatment program" merely refers to a treatment program that has been permitted, authorized, or approved by the Department of Youth Services.

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

Sincerely,

BILL PRYOR
Attorney General

By:

A handwritten signature in black ink, appearing to read "Carol Jean Smith". The signature is written in a cursive, flowing style.

CAROL JEAN SMITH
Chief, Opinions Division

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