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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Community Notification Act – Sex
Offenders – Residence Requirements

The Community Notification Act prohibits an adult criminal sex offender from establishing a residence within 1000 feet of the property on which any of his former victims or the victims' immediate family reside.

Whenever an offender is released from a period of incarceration imposed as a result of a conviction for a criminal sex offense, the Act deems the offender to have established a new residence, even if the offender returns to the same residence he had established prior to his conviction.

Dear Mr. Owens:

This opinion of the Attorney General is issued in response to your request regarding the Community Notification Act.

QUESTION

Does the Community Notification Act allow an adult criminal sex offender, who resided within 1000 feet of the property of a former

victim prior to his conviction, to return to his former residence subsequent to his incarceration?

FACTS, ANALYSIS, AND CONCLUSION

According to the information provided in your opinion request, an individual recently pleaded guilty in Shelby County Circuit Court to one count each of first-degree sodomy and first-degree sexual abuse. Both of these offenses constitute a "criminal sex offense" for purposes of the Community Notification Act ("the Act") (codified at sections 15-20-21 through -37 of the Code of Alabama). Pursuant to this guilty plea and conviction, the offender was incarcerated for a period of 48 hours. Upon his release, the offender returned to the same residence he had established prior to his convictions. Such residence, however, is within 1000 feet of the property on which the offender's victim and the victim's immediate family reside. Your question concerns whether the offender may lawfully maintain his residence under the provisions of the Act.

The Act specifically states that "[u]nless otherwise exempted by law, no adult 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." See ALA. CODE § 15-20-26(b) (Supp. 2000). The Act also provides:

Notwithstanding other provisions of law regarding establishment of residence, an adult criminal sex offender shall be deemed to have established a new residence . . . [w]henver 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(b)(2) (Supp. 2000).

Under the circumstances set forth in your opinion request, it is clear the Act prohibits the offender in question from residing at his former residence since his release from incarceration. The Act plainly prohibits an adult criminal sex offender from establishing a residence in such proximity to his former victim. Moreover, regardless of whether the

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offender had established a residence within 1000 feet of his victim prior to his conviction, section 15-20-23(b)(2) of the Code deems the offender to have established a residence anew for purposes of the Act upon his release from the period of incarceration imposed as a result of his conviction. Thus, the offender is currently in violation of the Act, and his establishment of a residence within 1000 feet of his former victim may, in fact, constitute a Class C felony. See ALA. CODE § 15-20-26(f) (Supp. 2000).

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

Sincerely,

BILL PRYOR
Attorney General
By:



CAROL JEAN SMITH
Chief, Opinions Division

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