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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

BILL PRYOR  
ATTORNEY GENERAL

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ALABAMA STATE HOUSE  
11 SOUTH UNION STREET  
MONTGOMERY, AL 36130  
(334) 242-7300  
WWW.AGO.STATE.AL.US

Honorable Kristi A. Valls  
District Attorney  
Limestone County District Attorney's Office  
County Courthouse  
P.O. Box 415  
Athens, Alabama 35612

Community Notification Act – District  
Attorneys - Residence Requirements

Even if an adult criminal sex offender has not “established a residence” near his victim, he violates the Community Notification Act if he establishes “any other living accommodation” within 1000 feet of his victim’s home.

“Living accommodation” is defined as “lodgings” or “room and board.”

The plain and ordinary meaning of “any other living accommodation” is that it is a place where someone lodges, regardless of the number of days the person remains there.

Dear Ms. Valls:

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

QUESTION

May a convicted sex offender “live” in a house within one thousand feet of his former victim so long as his stay does not exceed five consecutive days? In the alternative, is a stay such as four days and twenty-three hours considered “any other living accommodation” as defined by the statute?

### FACTS AND ANALYSIS

An adult criminal sex offender pleaded guilty to first-degree sexual abuse, as proscribed by section 13A-6-66 of the Code of Alabama, on August 21, 2000. The offender subsequently served a period of incarceration. At the time of the offender's release, he declared his intended place of residence as required by section 15-20-22(a)(1) of the Code of Alabama. The place of residence declared by the offender is apparently not in unlawful proximity to a school, child care facility, or the residence of the offender's former victims or their immediate family members. Therefore, the offender's declared place of residence appears to comport with the residency restrictions imposed by section 15-20-26 of the Code of Alabama.

Although the offender's declared place of residence appears to be lawful, he does not actually "live" at this location all of the time. Rather, he spends a substantial amount of time "living" at a house that is within 1000 feet of the residence of the offender's victim. On the advice of his attorney, however, the offender actually remains at this house only about four days at a time, and he apparently never stays at that location for as much as five consecutive days. Once the offender leaves the second house, he returns to his declared place of residence for a time, only to later return to the second house for another period of approximately four days. Consequently, the offender is effectively "living" in two separate houses.

The Community Notification Act ("the Act") provides that "no adult criminal sex offender shall establish a residence or any other living accommodation within 1000 feet of the property on which any of his or her former victims, or the victims' immediate family members reside." ALA. CODE § 15-20-26(b) (Supp. 2001). A knowing violation of this provision constitutes a Class C felony. ALA. CODE § 15-20-26(f) (Supp. 2001).

The Act also provides that "[n]otwithstanding 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 for five consecutive days or more." ALA. CODE § 15-20-23(b)(1) (Supp. 2001). The offender in question has apparently seized upon this provision, believing he will not violate the Act if he does not remain at the second house, which is in unlawful proximity to the residence of his victim, for five consecutive days. Although, in the light of section 15-20-23(b)(1), the offender will never "establish a residence" at the second house unless he domiciles himself there for five consecutive days, that alone does not ensure his

compliance with the Act. Section 15-20-26(b) prohibits adult criminal sex offenders from establishing a "residence" *or* "any other living accommodation" within 1000 feet of their victims. Therefore, even if the offender in question has not "established a residence" near his victim, he may yet have violated the Act if he has established "any other living accommodation" within 1000 feet of his victim's home.

Neither the Act nor any other provisions of the Code of Alabama define what constitutes the establishment of "any other living accommodation." Likewise, Alabama case law is devoid of decisions addressing the meaning of this phrase. This phrase, however, must have some significance, because it is a well-established rule of statutory construction that "every clause in an act must be accorded a field of operation if possible." *Ex parte Jackson*, 625 So. 2d 425, 428 (Ala. 1992).

"Words used in [a] statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used . . . [it must be interpreted] to mean exactly what it says." *Tuscaloosa County Comm'n v. Deputy Sheriffs' Ass'n of Tuscaloosa County*, 589 So. 2d 687, 689 (Ala. 1991). *Webster's Dictionary* defines "accommodation" in a number of ways, but when such word is used in conjunction with "living," the best definition that can be ascribed is that it is "lodgings" or "room and board." *Webster's New World Dictionary* 8 (3d. ed. 1991). Significantly, this definition, unlike that statutorily attributed to "residence" in the Act, does not entail any concept of "domicile." Moreover, this definition of "accommodation" does not suggest that an offender must necessarily spend a minimum amount of time at a given location for him to establish "any other living accommodation." Rather, the plain and ordinary meaning of "any other living accommodation" is simply that it is a place where someone lodges, regardless of the number of days the person remains there.

### CONCLUSION

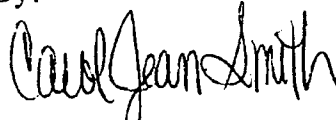
The adult criminal sex offender in question has undoubtedly taken up lodging in a house that is located within 1000 feet of the residence of his victim. Because he does not remain at that house for five consecutive days, he has not "established a residence" there. Nonetheless, the living arrangements undertaken by this offender have caused him to establish "any other living accommodation" in unlawful proximity to the residence of his victim. Therefore, so long as the offender engages in this pattern of conduct, he will be in violation of section 15-20-26(b) of the Code of Alabama.

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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,

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

BP/SLR  
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