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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Brandon K. Falls  
District Attorney  
Tenth Judicial Circuit  
801 Richard Arrington Jr. Boulevard North  
Birmingham, Alabama 35203

Sex Offenders -- Community Notification  
Act -- Sexual Misconduct -- District  
Attorneys -- Jefferson County

Criminal sex offenders required to register  
by section 13A-11-200 of the Code of  
Alabama who transfer their legal residence  
from one county to another county must  
register with the sheriff of the county to  
which they have moved within seven days  
after such move.

Nothing in this opinion should be  
construed to alter or limit the conditions  
under which a sex offender must register  
under the Community Notification Act.

Dear Mr. Falls:

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

QUESTIONS

What is the legislative intent of section 13A-11-200 regarding criminal sex offenders convicted of the misdemeanor offenses of sexual misconduct [section 13A-6-65] and/or indecent exposure [section 13A-6-68] with regard to changing addresses intra-county after initial registration?

If it is the opinion of the Attorney General that the above-referenced offender should be charged under section 13A-11-200, what language should be included in the warrant/indictment to be legally sufficient?

If it is the opinion of the Attorney General that the intent is to require the above-referenced offender to notify law enforcement of intra-county address changes, but this opinion is based upon other statutes or case law, please explain how this is to be incorporated in the language of the warrant or indictment.

#### FACTS AND ANALYSIS

There are two main registration procedures applicable to persons convicted of sex offenses in the State of Alabama. The first is codified at section 13A-11-200 of the Code of Alabama, and it provides for the registration of offenders convicted of "any act of sexual perversion involving a member of the same or the opposite sex, or any sexual abuse of any member of the same or the opposite sex . . . ." ALA. CODE § 13A-11-200 (2006). The second legal scheme for the registration and monitoring of sex offenders is called the "Community Notification Act," which is codified in section 15-20-20, *et seq.*, of the Code.

The Community Notification Act contains a slightly different list of offenses covered by it. *See* ALA. CODE § 15-20-21(4) (Supp. 2010) [defining "Criminal sex offense(s)" for purposes of the Community Notification Act]. Sometimes, though not always, these registration schemes overlap. Your inquiry pertains to sex offenders who are only required to register under section 13A-11-200.<sup>1</sup> This section provides as follows:

(a) The Legislature declares that its intent in imposing certain reporting and registration requirements on criminal sex offenders is to protect the public, especially children, from the dangers posed by criminal sex offenders and not to further punish such offenders.

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<sup>1</sup> The offenses of misdemeanor sexual misconduct (section 13A-6-65 of the Code) and indecent exposure (section 13A-6-68) are registerable under section 13A-11-200, but not under the Community Notification Act (section 15-20-20, *et seq.*).

(b) If any person, except a delinquent child, as defined in Section 12-15-1, residing in Alabama, has heretofore been convicted, or shall be convicted in any state or municipal court in Alabama, or federal court, or so convicted in another state in any court having jurisdiction similar to the jurisdiction of state and municipal courts in Alabama for any of the offenses hereinafter enumerated, such person shall, upon his or her release from legal custody, register with the sheriff of the county of his or her legal residence within seven days following such release or within 30 days after September 7, 1967, in case such person was released prior to such date. For purposes of this article, a conviction includes a plea of nolo contendere, regardless of whether adjudication was withheld. The offenses above referred to are generally any act of sexual perversion involving a member of the same or the opposite sex, or any sexual abuse of any member of the same or the opposite sex or any attempt to commit any of these acts, and without limiting the generality of the above statement shall include specifically: Rape, as proscribed by Sections 13A-6-61 and 13A-6-62; sodomy, as proscribed by Sections 13A-6-63 and 13A-6-64; sexual misconduct, as proscribed by Section 13A-6-65; indecent exposure, as proscribed by Section 13A-6-68; promoting prostitution in the first or second degree, as proscribed by Sections 13A-12-111 and 13A-12-112; obscenity, as proscribed by Section 13A-12-131; incest, as proscribed by Section 13A-13-3; or the attempt to commit any of the above offenses.

(c) *Any person* having been so convicted shall *upon moving his legal residence from one county to another* register with the sheriff of the county to which he has moved within seven days after such removal. It shall be unlawful for a convicted sex offender as described in this article to fail or refuse to register as required in this section and failure to do so is a Class C felony.

The legislative intent, broadly, is "to protect the public, especially children, from the dangers posed by criminal sex offenders and not to further punish such offenders" as specifically set out in subsection (a) of the act. *Id.* at (a). But your question asks specifically whether it was the intent of the Legislature to require sex offenders who transfer their residence intra-county following their initial registration to register such address changes with the sheriff.

Under the established rules of statutory construction, the legislative intent may be gleaned from the language used, the reason and necessity for the act, and the purpose sought to be obtained by its passage. *Ex parte Holladay*, 466 So. 2d 956 (Ala. 1985). If the language of the statute is clear and unambiguous, then there is no room for judicial construction and the clearly expressed intent of the Legislature must be given effect. *Dumas Bros. Mfg. Co. v. S. Guar. Ins. Co.*, 431 So. 2d 534 (Ala. 1983).

Guided by these principles, the language used in section 13A-11-200 appears to be clear and unambiguous. The legislative intent in drafting the registration scheme of section 13A-11-200 to protect the public from the dangers posed by criminal sex offenders is that those sex offenders who are required to register by this section, and only those offenders who subsequently "transfer [their] legal residence from one county to another" must "register with the sheriff of the county to which [they] ha[ve] moved within seven days after such removal." ALA. CODE § 13A-11-200 (2006); *see also*, opinion to Honorable Samuel L. Russell, District Attorney, Tenth Judicial Circuit-Bessemer Division, dated August 11, 1997, A.G. No. 97-00255, at 4 (emphasis added) (noting that section 13A-11-200 "requires that a criminal sex offender must register . . . with the sheriff of any county *to which* he or she subsequently moves").

It should be noted that this analysis is limited to the construction of section 13A-11-200. Nothing in this opinion should be construed to alter or limit the conditions under which a sex offender must register under the Community Notification Act (section 15-20-20, *et seq.*). Sex offenders who must register under both section 13A-11-200 and the Community Notification Act must comply with both registration procedures.<sup>2</sup>

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<sup>2</sup> The language contained in the residence-transfer section of the Community Notification Act is substantially different from the language contained in section 13A-11-200(c). *See* ALA. CODE § 15-20-23 (Supp. 2010) (emphasis added) (requiring an adult criminal sex offender who "intends to transfer his or her residence to *a different location*" to register such with law enforcement).

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Because the answer to your first question was in the negative, your remaining two questions are moot.

CONCLUSION

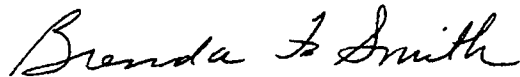
Criminal sex offenders required to register by section 13A-11-200 of the Code of Alabama who transfer their legal residence from one county to another county must register with the sheriff of the county to which they have moved within seven days after such move.

Nothing in this opinion should be construed so as to alter or limit the conditions under which a sex offender must register under the Community Notification Act.

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

Sincerely,

TROY KING  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

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