

1 HB683
2 116733-1
3 By Representative Oden
4 RFD: Judiciary
5 First Read: 04-MAR-10

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8 SYNOPSIS: Existing law requires a sex offender to
9 register his or her place of residence and
10 prohibits the sex offender from living within a
11 certain distance of schools, playgrounds, daycare
12 centers, and other places where children gather,
13 but does not require notification to be given
14 directly to a long-term care facility or its
15 residents of a sex offender living or working in
16 the county or municipality where the facility is
17 located.

18 This bill would prohibit a sex offender or
19 violent crime offender from living within a certain
20 distance of a long-term care facility.

21 This bill would require notification be
22 given to the Department of Public Health of the
23 residency and employment of a sex offender or a
24 violent crime offender and would require the
25 Department of Public Health to notify a long-term
26 care facility and its residents of the intent of a
27 sex offender or violent crime offender to live or

1 work in the county or municipality where the
2 facility is located.

3 This bill would require a sex offender or
4 violent crime offender to disclose his or her
5 criminal history on an application for admission to
6 or employment by a long-term care facility and
7 would require the facility to notify its residents
8 and the Department of Senior Services of the
9 admittance or employment of a sex offender or
10 violent crime offender.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
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16 To amend Sections 15-20-22 as last amended by Act
17 2009-619 of the 2009 Regular Session (Acts 2009, p. 1791) and
18 15-20-26, as last amended by Act 2009-558 of the 2009 Regular
19 Session (Acts 2009, p. 1603) of the Code of Alabama 1975,
20 relating to sex offenders; to prohibit a sex offender or
21 violent crime offender from living within a certain distance
22 of a long-term care facility; to require certain notification
23 procedures to the Department of Public Health, the Department
24 of Senior Services, a long-term care facility, and the
25 residents of a long-term care facility of the residency and
26 employment of a sex offender or violent crime offender,

1 including his or her residency at or employment by the
2 long-term care facility.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 15-20-22, as last amended by Act
5 2009-619 of the 2009 Regular Session (Acts 2009, p. 1791) and
6 15-20-26, as last amended by Act 2009-558 of the 2009 Regular
7 Session (Acts 2009, p. 1603) of the Code of Alabama 1975, are
8 amended to read as follows:

9 "§15-20-22.

10 "(a) One hundred eighty days prior to the release of
11 an adult criminal sex offender, the following shall apply:

12 "(1) The responsible agency shall require the adult
13 criminal sex offender to declare, in writing or by electronic
14 means approved by the Director of the Department of Public
15 Safety, the actual physical address at which he or she will
16 reside or live upon release and the name and physical address
17 of his or her employer, if any. The actual physical address at
18 which he or she will reside or live upon release shall be
19 verified by the local law enforcement agency prior to release.
20 This verification by local law enforcement shall include
21 determining whether the address complies with this article. At
22 least 110 days before a scheduled release, the local law
23 enforcement agency shall notify the responsible agency whether
24 or not the address was verified and whether or not the address
25 complies with this article. If the address cannot be verified
26 or does not comply with this article, the responsible agency,
27 at least 100 days prior to the scheduled release, shall notify

1 the adult criminal sex offender that the provided address does
2 not satisfy the requirements of this section, shall inform the
3 adult criminal sex offender of the reason that the provided
4 address does not satisfy the requirements of this section, and
5 shall provide written notice to the adult criminal sex
6 offender that he or she shall be considered in violation of
7 this section and shall be subject to the penalties provided in
8 this subsection unless he or she provides a verifiable actual
9 physical address at which he or she will reside or live upon
10 release in compliance with this article at least 70 days prior
11 to his or her scheduled release as provided in this
12 subsection. If the adult criminal sex offender provides a new
13 physical address at which he or she will reside or live upon
14 release, the verification process set out herein shall be
15 conducted for the new physical address to determine whether
16 the address complies with this article. Any failure by the
17 adult criminal sex offender to comply with the requirements of
18 this section shall constitute a Class C felony. Any adult
19 criminal sex offender in violation of this section shall be
20 ineligible for release on probation or parole. Any adult
21 criminal sex offender in violation of this section who is to
22 be released due to the expiration of his or her sentence shall
23 be treated as follows:

24 "a. If the offender has not accumulated any
25 incentive time pursuant to Section 14-9-41 or any other law,
26 he or she shall be charged with violating this section. At
27 least five days prior to his or her release date, the

1 Department of Corrections shall notify the sheriff in the
2 county where the last conviction for a criminal sex offense
3 took place, which county shall be the proper venue for arrest
4 and prosecution of violation of this section. Upon notice of
5 the release date, the sheriff from the county of the last
6 conviction for a criminal sex offense shall make arrangements
7 to have the offender immediately remanded to his or her
8 custody at the time of release. Any adult criminal sex
9 offender charged with violating this section may only be
10 released on bond on the condition that the offender is in
11 compliance with this section before being released.

12 "b. If the offender has accumulated correctional
13 incentive time pursuant to Section 14-9-41 or any other law,
14 the offender shall be charged with non-compliance with this
15 section and shall not be allowed early release, but instead
16 shall forfeit all correctional incentive time that has accrued
17 pursuant to Section 14-9-41, or other good time allowed by
18 law.

19 "(2) If the adult criminal sex offender declares his
20 or her intent to reside or be employed outside of the state,
21 the responsible agency, within five business days of the
22 declarations required by this article, shall notify the
23 Director of the Department of Public Safety, the Attorney
24 General, or the designated state law enforcement agency of the
25 state to which the adult criminal sex offender has declared
26 his or her intent to move or in which he or she intends to be
27 employed, and shall also notify the Alabama Criminal Justice

1 Information Center. The notification shall include all
2 information available to the responsible agency which would be
3 necessary to identify and trace the adult criminal sex
4 offender, including, but not limited to, the offender's
5 declared places of residence and employment, each sex offense
6 history or pre-sentence investigation of the sex offense,
7 fingerprints, and a current photograph of the adult criminal
8 sex offender.

9 "(3) If the adult criminal sex offender declares his
10 or her intent to reside, live, or be employed within this
11 state, the responsible agency shall, within five business days
12 of the written declaration, notify the Attorney General, the
13 Director of the Department of Public Safety, the Department of
14 Public Health, the district attorney, and the sheriff of any
15 county in which the adult criminal sex offender intends to
16 reside or be employed, the chief of police of any municipality
17 in which the adult criminal sex offender intends to reside or
18 be employed, and the Alabama Criminal Justice Information
19 Center. The notification shall include all information
20 available to the responsible agency which would be necessary
21 to identify and trace the adult criminal sex offender,
22 including, but not limited to, the offender's declared places
23 of residence and employment, each sex offense history or
24 pre-sentence investigation of the sex offense, fingerprints,
25 and a current photograph of the criminal sex offender.

26 "(4)a. The Department of Public Health shall be
27 responsible for notifying a long-term care facility, as

1 defined by Section 22-21-10, and the residents of the
2 long-term care facility of the intent of a sex offender to
3 reside, live, or be employed in the county or municipality
4 where the long-term care facility is located.

5 "b. Prior to release or at any time thereafter, if
6 an adult criminal sex offender declares his or her intent to
7 reside, live, or be employed at a long-term care facility, the
8 offender shall disclose on his or her application for
9 admission to or employment by the long-term care facility that
10 he or she has been convicted of a criminal sex offense as
11 defined by Section 15-20-21. Failure to disclose this
12 information shall be grounds for revocation of parole of the
13 offender.

14 "c. If the long term-care facility admits or employs
15 an adult criminal sex offender, the long-term care facility
16 shall immediately give written notification to each resident
17 of the long-term care facility and the Department of Senior
18 Services of the admittance or employment of an adult criminal
19 sex offender.

20 "(4)(5) The Alabama Criminal Justice Information
21 Center shall be responsible for notifying the Federal Bureau
22 of Investigation with sex offender information upon receiving
23 this information from the responsible agency. Measures shall
24 be taken to ensure this information is submitted to and
25 included in the national database of sex offenders established
26 pursuant to 42 U.S.C. § 14072.

1 "~~(5)~~(6) Upon conviction and again prior to requiring
2 the adult criminal sex offender to provide the address
3 described in subdivision (1), the responsible agency shall
4 provide the adult criminal sex offender with a form,
5 promulgated by the Attorney General's Office, that lists the
6 requirements of this article. All other adult criminal sex
7 offenders, including those who have already been released,
8 shall be provided with this form at the next scheduled date
9 following May 21, 2009, that he or she is required to present
10 in person the completed verification form mandated by
11 subsection (b) of Section 15-20-24. The adult criminal sex
12 offender shall acknowledge receipt of the form by signing it
13 in the designated space. This form shall remain in the adult
14 criminal sex offender's file at the Department of Public
15 Safety.

16 "(b) If a sentencing court does not impose a
17 sentence of incarceration upon conviction of the adult
18 criminal sex offender for a criminal sex offense, notification
19 shall be provided by the responsible agency in accordance with
20 subsection (a) within 24 hours of release.

21 "(c) Prior to release, every adult criminal sex
22 offender convicted for a criminal sex offense shall submit to
23 the probation officer or sheriff a DNA sample that will be
24 sent to the Department of Forensic Sciences. An adult criminal
25 sex offender who intentionally fails to provide a DNA sample
26 shall be guilty of a Class C felony.

1 "(d) If an adult criminal sex offender is unable to
2 declare a place of employment prior to release because he or
3 she is unemployed, the offender shall declare in writing or by
4 electronic means approved by the Director of the Department of
5 Public Safety the name and physical address of his or her
6 employer to the sheriff of the county and chief of police of
7 the municipality in which the offender is employed by the end
8 of the next business day after he or she obtains employment.
9 Any failure to provide a timely and accurate written
10 declaration as required by this section is a Class C felony.

11 "§15-20-26.

12 "(a) Unless otherwise exempted by law, no adult
13 criminal sex offender shall establish a residence or any other
14 living accommodation or accept employment within 2,000 feet of
15 the property on which any school, including, but not limited
16 to, an elementary or secondary school and a college or
17 university, or child care facility is located.

18 "(b) Unless otherwise exempted by law, no adult
19 criminal sex offender shall establish a residence or any other
20 living accommodation within 1,000 feet of the property on
21 which any of his or her former victims, or the victims'
22 immediate family members reside, or within 1,000 feet of a
23 long-term care facility as defined by Section 22-21-10.

24 "(c) No adult criminal sex offender shall establish
25 a residence or any other living accommodation where a minor
26 resides. Notwithstanding the foregoing, an adult criminal sex
27 offender may reside with a minor if the adult criminal sex

1 offender is the parent, grandparent, or stepparent of the
2 minor, unless one of the following conditions applies:

3 "(1) The adult criminal sex offender's parental
4 rights have been or are in the process of being terminated as
5 provided by law.

6 "(2) The adult criminal sex offender has been
7 convicted of any criminal sex offense in which any of the
8 offender's minor children, grandchildren, or stepchildren were
9 the victim.

10 "(3) The adult criminal sex offender has been
11 convicted of any criminal sex offense in which a minor was the
12 victim and the minor resided or lived with the offender at the
13 time of the offense.

14 "(4) The adult criminal sex offender has ever been
15 convicted of any criminal sex offense involving a child,
16 regardless of whether the offender was related to or shared a
17 residence with the child victim.

18 "(d) No adult criminal sex offender shall be
19 permitted to willfully or knowingly come within 100 feet of
20 any of his or her former victims, except as elsewhere provided
21 by law, or make any visual or audible sexually suggestive or
22 obscene gesture, sound, or communication at or to a former
23 victim or a member of the victim's immediate family.

24 "(e) Changes to property within 2,000 feet of an
25 adult criminal sex offender's registered address which occur
26 after an adult criminal sex offender establishes residency or
27 accepts employment shall not form the basis for finding that a

1 criminal sex offender is in violation of subsections (a) or
2 (b).

3 "(f) No adult criminal sex offender, after having
4 been convicted of a criminal sex offense involving a child,
5 shall loiter on or within 500 feet of any property on which
6 there is a school, child care facility, playground, park,
7 athletic field or facility, school bus stop, or any other
8 business or facility having a principal purpose of caring for,
9 educating, or entertaining minors. Under this subsection,
10 loiter means to enter or remain on property while having no
11 legitimate purpose therefor or, if a legitimate purpose
12 exists, remaining on that property beyond the time necessary
13 to fulfill that purpose. An offender does not violate this
14 subsection unless he or she has first been asked to leave a
15 prohibited location by a person authorized to exclude the
16 offender from the premises. An authorized person includes, but
17 is not limited to, any law enforcement officer, any owner or
18 manager of the premises, a principal or teacher if the
19 premises is a school or child care facility, or a coach if the
20 premises is an athletic field or facility.

21 "For purposes of this subsection, the term school
22 includes all property owned by a college or university and
23 used for educational purposes or for official school
24 functions.

25 "For purposes of this subsection, a school bus stop
26 is any location where a motor vehicle owned or operated by or
27 on behalf of a public or private secondary school stops on a

1 regular basis for the purpose of transporting children to and
2 from school.

3 "(g) No adult criminal sex offender, after having
4 been convicted of a criminal sex offense involving a child,
5 shall accept, maintain, or carry on any employment or vocation
6 at or within 500 feet of a school, child care facility,
7 playground, park, athletic field or facility, or any other
8 business or facility having a principal purpose of caring for,
9 educating, or entertaining minors.

10 "(h) An adult criminal sex offender who knowingly
11 violates the provisions of this section shall be guilty of a
12 Class C felony."

13 Section 2. (a) Unless otherwise exempted by law, no
14 person convicted of a violent offense shall establish a
15 residence or any other living accommodation within 1,000 feet
16 of a long-term care facility.

17 (b) Prior to release or at any time thereafter, if a
18 person convicted of a violent offense declares his or her
19 intent to reside, live, or be employed within this state, the
20 Department of Corrections shall notify the Department of
21 Public Health, with the notification to include all
22 information available to the Department of Corrections which
23 would be necessary to identify and trace the person convicted
24 of a violent offense, including, but not limited to, the place
25 of residence and employment of the person, the criminal
26 history of the person as it pertains to his or her violent

1 offense conviction, fingerprints, and a current photograph of
2 the person.

3 (c) (1) The Department of Public Health shall be
4 responsible for notifying a long-term care facility and the
5 residents of the long term-care facility of the intent of a
6 person convicted of a violent offense to reside, live, or be
7 employed in the county or municipality where the long-term
8 care facility is located.

9 (2) Prior to release or at any time thereafter, if a
10 person convicted of a violent offense declares his or her
11 intent to reside, live, or be employed at a long-term care
12 facility, the person shall disclose on his or her application
13 for admission to or employment by the long-term care facility
14 that he or she has been convicted of a violent offense.
15 Failure to disclose this information shall be grounds for
16 revocation of parole of the person.

17 (3) If the long-term care facility admits or employs
18 a person convicted of a violent offense, the long-term care
19 facility shall immediately give written notification to each
20 resident of the long-term care facility and the Department of
21 Senior Services, of the admittance or employment of a person
22 convicted of a violent offense.

23 (d) For the purposes of this section, the term
24 "violent offense" shall have the meaning ascribed to it by
25 Section 12-25-32 of the Code of Alabama 1975, and the term
26 "long-term care facility" shall have the meaning ascribed to
27 it by Section 22-21-10 of the Code of Alabama 1975.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.