S T A T E O F T E N N E S S E E
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March 6, 2009

Opinion No. 09-21

Registration of Transient Sex Offenders

QUESTION

If a sex offender arrives in an area on Friday and stays the weekend, and if the offender leaves the state late Monday night, has he met the requirements for registration or would he be in violation of the law for failing to register?

OPINION

The sex offender in the described scenario would not be in violation of the sexual offender registration requirement.

ANALYSIS

The purpose of statutory construction is to "ascertain and give effect to the legislative intent without unduly restricting or expanding a statute's coverage beyond its intended scope." *Wilson v. Johnson County*, 879 S.W.2d 807, 809 (Tenn. 1994). When multiple statutes are related to the same subject matter, they must be read *in pari materia*. *In Re C.K.G.*, 173 S.W.3d 714, 722 (Tenn. 2005). We are required to "construe the statute so that no part will be inoperative, superfluous, void or insignificant." *State v. Northcutt*, 568 S.W.2d 636, 637-38 (Tenn. 1978). Statutes which enact criminal or quasi-criminal laws must be strictly construed in favor of persons that they apply to. *Key v. State.*, 563 S.W.2d 184, 188 (Tenn. 1978). Since the registration requirement in Tenn. Code Ann. § 49-39-203 (2008 Supp.) carries a criminal penalty for its violation, it must be strictly construed.

As discussed in Op. Tenn. Att'y Gen. 09-05 (Jan. 23, 2009), sexual offenders must register within forty-eight hours of establishing sufficient contact with Tennessee. Tenn. Code Ann. § 40-39-203(a)(1) (2008 Supp.). We also opined that, when the sex offender registration time requirement was read together with the general standardized method of computing time under Tenn. Code Ann. § 1-3-102 (2008 Supp.), Tennessee law establishes that a sex offender has until the end of the next regular business day to either register or leave the state in a case where the registration deadline falls upon a Saturday, Sunday, or legal holiday. Therefore, under the scenario described in this request, a sex offender would have through the end of the day on Monday to either register or leave the State.[1]

[1] This analysis is based upon your scenario above. If the Monday is also a legal holiday, the sex offender would have until the end of the day Tuesday to register or leave the State.

You also asked whether, under this scenario, it is a violation for a sex offender to stay in the state until very late in the day on the day he is supposed to either register or leave the state. The Tennessee Supreme Court has noted that the law does not generally recognize fractions of a day. *Allen v. Effler*, 144 Tenn. 685, 690, 235 S.W. 67, 68 (Tenn. 1921). Based upon that principle, a sex offender would either have to register or leave the State before 12:00 midnight on the day he is statutorily required to register. If the sex offender leaves the State before 12:00 midnight, then the sex offender has not violated the law.

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Requested by:

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