

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

March 27, 2014

Opinion No. 14-37

Sex Offender's Attendance at a School Sporting Event

QUESTION

May a sex offender attend a school function such as a school sporting event as the parent or legal guardian of a child who is enrolled in the school?

OPINION

No. Tenn. Code Ann. § 40-39-211(d) prohibits a sex offender from being or remaining on the premises of any public or private school or public athletic field whenever the offender has reason to believe that children under the age of 18 are present. The only pertinent exception is for a parent or guardian's attending a conference with school officials.

ANALYSIS

Under Tenn. Code Ann. § 40-39-211(d)(1):

No sexual offender, as defined in § 40-39-202, or violent sexual offender, as defined in § 40-39-202, shall knowingly:

(A) Be upon or remain on the premises of any building or grounds of any public school, private or parochial school, licensed day care center, other child care facility, public park, playground, recreation center or public athletic field available for use by the general public in this state when the offender has reason to believe children under eighteen (18) years of age are present.

Subdivision (d)(1) of § 40-39-211 shall not apply when the offender:

Is attending a conference with school, day care, child care, park, playground or recreation center officials as a parent or legal guardian of a child who is enrolled in the school, day care center, other child care center or of a child who is a participant at the park, playground or recreation center and has received written permission or a request from the school's principal or the facility's administrator.

Tenn. Code Ann. § 40-39-211(d)(2)(B).¹

The primary objective of statutory construction is “to ascertain and give effect to the intent and purpose of the legislature.” *Walker v. Sunrise Pontiac-GMC Truck, Inc.*, 249 S.W.3d 301, 309 (Tenn. 2008). “Legislative intent is to be ascertained whenever possible from the natural and ordinary meaning of the language used, without forced or subtle construction that would limit or extend the meaning of the language.” *Hawks v. City of Westmoreland*, 960 S.W.2d 10, 16 (Tenn. 1997).

The statute allows an exception for a parent’s attending a conference with school officials with the written permission or at the request of the school’s principal.² “[A]ttending a conference with school . . . officials” cannot be construed to mean attending a school sporting event or other such school function. Therefore, under this subdivision of § 40-39-211(d), unless a sex offender is attending a conference with school officials at his or her child’s school, he or she may not attend a school event.³

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Attorney General and Reporter

¹ Other exemptions, not pertinent here, are set forth in Tenn. Code Ann. § 40-39-211(d)(2)(A), (C)-(D).

² The requirement that a sex offender have no “specific or legitimate reason for being there” in order to violate the statute applies only in Tenn. Code Ann. § 40-39-211(d)(1)(B), which provides that no sex offender shall knowingly “[s]tand, sit idly . . . , or remain” within 1,000 feet of the property line of any public or private school or public athletic field when children under 18 are present. Once a sex offender passes over the property line to be “on the premises,” the provisions of subdivision (d)(1)(A) apply.

³ In Tenn. Att’y Gen. Op. 09-142 (July 31, 2009), this Office opined that the exception in Tenn. Code Ann. § 40-39-211(d)(2)(B) allowed sex offenders who are parents to be on school grounds while attending scheduled school events where school officials are present. But that opinion was based on a prior version of subdivision (d)(2)(B) that permitted attendance at “an academic conference or other scheduled school event.” Op. 09-142, at 2. In 2010, the legislature amended the statute to remove the references to “other scheduled event” from this subdivision and to add the requirement that any attendance at a conference with school officials be with the written permission or at the request of the school’s principal. 2010 Tenn. Pub. Acts, ch. 750, § 1.

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