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Honorable Ana W. Franklin
Sheriff of Morgan County
119 Lee Street, NE
Decatur, Alabama 35601

Sex Offenders Registration Act – Community Notification Act – Sheriffs – Fees – Funds – County Commissions

Registration fees collected by the Morgan County Sheriff pursuant to section 15-20A-22 of the Code of Alabama must be transferred to the Morgan County Commission for appropriation to the sheriff to defray the costs of sex offender registration, verification, and notification.

Dear Sheriff Franklin:

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

QUESTION

Are registration fees collected pursuant to section 15-20A-22 of the Code required to be transferred to the county commission?

FACTS AND ANALYSIS

In 2011, the Alabama Legislature enacted Act 2011-640, further expanding the requirements and procedures related to sex offender registration. The provisions of the act became effective July 1, 2011, and

are codified in section 15-20A-1, *et seq.* of the Code of Alabama. ALA. CODE §§ 15-20A-1 to 15-20A-48 (2011).

Section 15-20A-22, in pertinent part, provides as follows:

> (a) An adult sex offender shall pay a registration fee in the amount of ten dollars ($10) to each ***registering agency*** where the adult sex offender resides beginning with the first quarterly registration on or after July 1, 2011, and at each quarterly registration thereafter.
>
> (b) Each time an adult sex offender terminates his or her residence and establishes a new residence, he or she shall pay a registration fee in the amount of ten dollars ($10) to each ***registering agency*** where the adult sex offender establishes a new residence.

ALA. CODE § 15-20A-22 (2011) (emphasis added).

Further, section 15-20A-4 defines "Registering Agency" as "[a]ny law enforcement agency where the sex offender registers required registration information." ALA. CODE § 15-20A-4(17) (2011).

The Legislature did not authorize the sheriff to create a fund or account for the deposit of these funds. In the absence of such authority, this Office has held that section 36-22-17 of the Code governs the disposition of monies received by the sheriff. Opinion to Honorable Charles E. Mauney, County Attorney, DeKalb County, dated December 8, 2010, A.G. No. 2011-020 at 2-3.

Section 36-22-17 provides the following:

> ***All fees, commissions, percentages, allowances, charges and court costs heretofore collectible for the use of the sheriff and his deputies,*** excluding the allowances and amounts received for feeding prisoners, which the various sheriffs of the various counties shall be entitled to keep and retain, except in those instances where the county commission directs such allowances and amounts to be paid into the

> general fund of the county by proper resolution passed by said county commission of said county, ***shall be collected and paid into the general fund of the county.***

ALA. CODE § 36-22-17 (2001) (emphasis added).

Section 15-20A-22(d) of the Code does, however, require that these funds be appropriated to the registering agency, in this instance, the sheriff. The Code states that "[t]he fees collected under this section ***shall be appropriated to the registering agency*** to defray the costs of sex offender registration, verification, and notification. . . ." ALA. CODE § 15-20A-22(d) (2011) (emphasis added).

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994); *IMED Corp. v. Sys. Eng'g Assoc. Corp.*, 602 So. 2d 344, 346 (Ala. 1992); *Tuscaloosa County Comm'n v. Deputy Sheriffs' Ass'n of Tuscaloosa County*, 589 So. 2d 687, 689 (Ala. 1991); *Coastal States Gas Transmission Co. v. Ala. Pub. Serv. Comm'n*, 524 So. 2d 357, 360 (Ala. 1988); opinion to Honorable Ned W. McHenry, Department of Public Safety, dated October 7, 1992, A.G. No. 93-00018 at 4.

The word "shall' has been defined as follows:

> As used in statutes, contracts, or the like, this word is generally imperative or mandatory. In common or ordinary parlance, and in its ordinary signification, the term "shall" is a word of command, and one which has always [been given] or which must be given a compulsory meaning; as denoting obligation. The word in ordinary usage means "must" and is inconsistent with a concept of discretion.

Ex parte Looney, 797 So. 2d 427, 428 (Ala. 2011) (internal citations omitted).

Accordingly, it is the opinion of this Office that registration fees collected by the Morgan County Sheriff pursuant to section 15-20A-24 of the Code must be transferred to the Morgan County Commission for appropriation to the sheriff to defray the costs of sex offender registration, verification, and notification.

CONCLUSION

Registration fees collected by the Morgan County Sheriff pursuant to section 15-20A-22 must be transferred to the Morgan County Commission for appropriation to the sheriff to defray the costs of sex offender registration, verification, and notification.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ben Baxley of my staff.

Sincerely,

LUTHER STRANGE
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By:

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Chief, Opinions Division

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