

August 27, 2003

Honorable David T. Marshall
Montgomery County Sheriff
Montgomery County Sheriff's Office
115 South Perry Street
Montgomery, Alabama 36103-4219

Sheriff – Pistol Permit

A person who is temporarily stationed outside of Montgomery County but who maintains residency there, may apply to the Montgomery County Sheriff's Office for a pistol permit. A dependent of an active duty soldier would have to meet the same residency requirements as the soldier himself.

Dear Sheriff Marshall:

This opinion of the Attorney General is issued in response to your request on behalf of the Montgomery County Sheriff's Office.

QUESTION

If a citizen is in the Armed Forces or is a dependent of an active duty soldier, and they are stationed in another county, state, or country, are they entitled to receive a pistol permit from their home county Sheriff's Office or do they need to apply in the place at which they are stationed?

FACTS AND ANALYSIS

Section 13A-11-75 of the Code of Alabama states in pertinent part as follow:

The sheriff of a county may upon the application of any person residing in that county, issue a qualified or unlimited license to such a person to carry a pistol in a vehicle or concealed on or about his person within this state for not more than one year from date of issue, if it appears that the applicant has good reason to fear injury to his person, or property or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed.

ALA. CODE § 13A-11-75(Supp. 2002).

The terms “residence” or “domicile” denote the place where the person is deemed in law to live and may not always be the place where the person is actually dwelling. *See Ex parte Sides*, 594 So.2d 93(Ala. 1992). The word “resides” may be used to signify where a person has a fixed or permanent home. *See Taylor v. Chattanooga Medicine Co.*, 59 So. 707(1912). It is the opinion of this Office that a person who is properly established as a resident of a county does not cease to become a resident when temporarily stationed in another county, state or abroad. A person who is permanently transferred from Alabama would no longer be a resident. It is the opinion of this Office that a person who is temporarily stationed outside of Montgomery County but maintains residency in Montgomery County may apply to the Montgomery County Sheriff’s Office for a pistol permit. A Montgomery County pistol permit is valid within the State of Alabama and certain other states that maintain reciprocity with Alabama. ALA. CODE § 13A-11-75 (SUPP. 2002); 2001 Ala. Acts No. 2001-494. The person requesting the pistol permit should be sure to check the laws of the place where he or she is temporarily living to make sure he or she is in compliance with the local pistol permit requirements as an Alabama pistol permit may not be valid in certain other states or countries.

A dependent of an active duty soldier would have to meet the same residency requirements as the soldier himself. A temporary move would not necessarily change his or her permanent residence. The Sheriff, however, is prohibited from issuing a license to carry a pistol to a person, who

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by operation of law, would be ineligible for such a license, such as a person under the age of 18. *E.M. v. State*, 675 So.2d 90 (Ala.Crim.App.1995).

CONCLUSION

A person who is temporarily stationed outside of Montgomery County but maintains residency in Montgomery County may apply to the Montgomery County Sheriff's Office for a pistol permit. A dependent of an active duty soldier would have to meet the same residency requirements as the soldier himself.

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

Sincerely,

BILL PRYOR
Attorney General
By:

CAROL JEAN SMITH
Chief, Opinions Division

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