

**11.15(i) FAILURE BY A SEXUAL PREDATOR TO COMPLY WITH
REGISTRATION REQUIREMENTS
(Failure to Report Intent to Move to Another State, Jurisdiction, or
Country)**

§ 775.21(6)(i), Fla. Stat.

**To prove the crime of Failure by a Sexual Predator to Comply with
Registration Requirements, the State must prove the following three elements
beyond a reasonable doubt:**

Give 1a or 1b as applicable.

1. (Defendant)

a. is a sexual predator.

**b. has agreed or stipulated that he has been convicted as a sexual
predator; therefore, you should consider the sexual predator status
element as proven by agreement of the parties.**

*If the defendant offers to stipulate, the court must accept the offer after
conducting an on-the-record colloquy with the defendant. See Brown v. State, 719 So. 2d
882 (Fla. 1998); Johnson v. State, 842 So. 2d 228 (Fla. 1st DCA 2003). If there is a
stipulation, the court should not also give the definition of “sexual predator” or
“convicted.”*

**2. (Defendant) established or maintained a permanent, temporary, or
transient residence in (name of county) County, Florida.**

Give 3a, 3b or 3c as applicable.

3. (Defendant)

**a. intended to leave this State to establish a permanent, temporary,
or transient residence in another state, jurisdiction, or country on
(date);**

and

**i. knowingly failed to report in person to an office of the sheriff in
the county of [his] [her] current residence at least 48 hours
before the date on which [he] [she] intended to leave this state
to establish residence in another state or jurisdiction within
the United States.**

or

**ii. knowingly failed to report in person to an office of the sheriff in
the county of [his] [her] current residence [at least 21 days
before the date on which [he] [she] intended to travel outside**

the United States] [as soon as possible before departure if [he] [she] did not know about leaving this state to travel outside the United States at least 21 days in advance of the departure].

b. (Defendant)

reported to an office of the sheriff of the county of [his] [her] current residence [his] [her] intention to establish residence in another state, or jurisdiction, or country;

and

knowingly failed to provide [[his] [her] (name the single unprovided registration item charged, as worded in the statute)] [any one or more of the following items: [his] [her] (name the unprovided registration items charged, as worded in the statute).]

c. (Defendant) intended to travel internationally and knowingly failed to provide to the office of the sheriff in the county of [his] [her] current residence [his] [her] expected departure and return dates, flight number, [airport] [cruise] of departure or any other means of intended travel.

Read only if the defendant is charged with failing to provide a physical residential address.

The defendant shall provide a physical residential address. A post office box shall not be provided in lieu of a physical residential address.

Give if the defendant meets his or her burden of production. See Barnes v. State, 108 So. 3d 700 (Fla. 1st DCA 2013).

It is a defense to the crime of Failure by a Sexual Predator to Comply with Registration Requirements that (defendant) attempted to comply with the requirements but was misinformed or otherwise prevented from complying by the office of the sheriff.

There is no statute for the defense of being misinformed or otherwise prevented from registering, and the case law is silent as to (1) which party bears the burden of persuasion of the affirmative defense and (2) the standard for the burden of persuasion. Under the common law, defendants had both the burden of production and the burden of persuasion on an affirmative defense by a preponderance of the evidence.

The Florida Supreme Court has often decided, however, that once a defendant meets the burden of production on an affirmative defense, the burden of persuasion is on the State to disprove the affirmative defense beyond a reasonable doubt (e.g., self-defense and consent to enter in a burglary prosecution). In the absence of case law, trial judges must resolve the issue via a special instruction. See the opinion in Dixon v. United States, 548 U.S. 1 (2006), for further guidance.

If burden of persuasion is on the defendant:

If you find that (defendant) **proved** (insert appropriate burden of persuasion) **that the office of the sheriff misinformed [him] [her] or otherwise prevented [him] [her] from complying with the registration requirements, you should find [him] [her] not guilty. If the defendant did not prove** (insert appropriate burden of persuasion) **that the office of the sheriff misinformed [him] [her] or otherwise prevented [him] [her] from complying, you should find [him] [her] guilty if all the elements of the charge have been proven beyond a reasonable doubt.**

Or, if the burden of disproving the affirmative defense is on the State under the beyond a reasonable standard:

If you find that the State proved beyond a reasonable doubt that the office of the sheriff did not misinform (defendant) **or did not otherwise prevent [him] [her] from complying with the registration requirements, you should find [him] [her] guilty, if all of the elements of the charge have also been proven beyond a reasonable doubt. However, if you have a reasonable doubt on the issue of whether the office of the sheriff misinformed** (defendant) **or otherwise prevented [him] [her] from complying with the registration requirements, you should find [him] [her] not guilty.**

Definitions. See instruction 11.15(l) for the applicable definitions.

Lesser Included Offenses

No lesser included offenses have been identified for this offense.

Comment

This instruction was adopted in 2008 [983 So. 2d 531] and amended in 2012 [85 So. 3d 1090], 2013 [113 So. 3d 754], 2014 [148 So. 3d 1204], 2016 [195 So. 3d 1088], 2018 [113 So. 3d 754], and on June 27, 2025.