

**11.14(d) FAILURE BY A SEXUAL OFFENDER TO COMPLY WITH
REGISTRATION REQUIREMENTS
(Failure to Report Change of Name or Address Within the State or
Jurisdiction)**

§ 943.0435(4)(a)1. and (4)(a)2., Fla. Stat.

**To prove the crime of Failure by a Sexual Offender 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 offender.
 - b.** has agreed or stipulated that [he] [she] has been convicted as a sexual offender; therefore, you should consider the sexual offender 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 give the definition of “sexual offender” or “convicted.”

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

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

- 3.** (Defendant)
 - a.** knowingly failed to report a change in [his] [her] [permanent, temporary, or transient residence] [name, by reason of marriage or other legal process] within 48 hours after the change, in person, to a driver’s license office, when [his] [her] driver’s license or identification card was subject to renewal.
 - b.** was unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles, and [he] [she] knowingly failed to report any change in [his] [her] [permanent, temporary, or transient residence] [name, by reason of marriage or other legal process] within 48 hours after the change, in person, to the office of the sheriff of (name of county) County.
 - c.** knowingly failed to report an in-state travel residence, within 48 hours after establishing the residence, either through the Department of Law Enforcement’s online system or in person to an office of the sheriff of (name of county) County.

- d. **was in the custody or control of the Department of [Corrections] [Juvenile Justice] and knowingly failed to report an in-state travel residence within 48 hours after establishing the residence, in person, at the Department of [Corrections] [Juvenile Justice].**

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 Offender 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] [Department of Highway Safety and Motor Vehicles].

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. 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] [Department of Highway Safety and Motor Vehicles] 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] [Department of Highway Safety and Motor Vehicles] 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] [Department of Highway Safety and Motor Vehicles] 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] [Department of Highway Safety and Motor Vehicles] misinformed (defendant) or otherwise prevented [him] [her] from complying with the registration requirements, you should find [him] [her] not guilty.

Definitions. See instruction 11.14(h) for the applicable definitions.

Lesser Included Offenses

No lesser included offenses have been identified.

Comment

This instruction was adopted in 2008 [983 So.2d 531] and amended in 2012 [85 So. 3d 1090] 2014 [195 So. 3d 1088], and on March 20, 2026.