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Federal Jury Practice And Instructions
Pattern Jury Instructions: Fifth Circuit, Criminal Cases

Prepared by the Committee on Pattern Jury Instructions District Judges Association Fifth Circuit

II. Substantive Offense Instructions

2.83 Failure to Register as a Sex Offender 18 U.S.C. § 2250

[Title 18, United States Code, Section 2250](#), makes it a crime for a person who is required to register under the Sex Offender Registration and Notification Act, and who travels in interstate *[foreign]* commerce, to knowingly fail to register as required by the Act.

For you to find the defendant guilty of this crime, you must be convinced that the government has proven each of the following beyond a reasonable doubt:

First: That the defendant was required to register under the Sex Offender Registration and Notification Act, as charged;

Second: That the defendant traveled in interstate *[foreign]* commerce; and

Third: That the defendant knowingly failed to register and keep a current registration as required by the Sex Offender Registration and Notification Act.

These three elements must be proven to have occurred in sequence.

A person is required to register if he is a sex offender, which means a person convicted of a sex offense. _____ is a sex offense.

A sex offender is required to register where he resides, which is the location of his home or other place where he habitually lives.

The government must prove beyond a reasonable doubt that the defendant knew he had to register and that he intentionally did not do so, but the government does not have to prove that the defendant knew he was violating federal law.

Note

This is a basic instruction for a state convicted sex offender charged with failure to register in the place in which he resides. The elements for federal sex offenders are slightly different. Sex offenders are also required to update their registration. *See* [18 U.S.C. § 2250](#). The Sex Offender Registration and Notification Act (SORNA), [42 U.S.C. §§ 16911–29](#), and its implementing regulations, [28 C.F.R. 72.1–72.3](#), contain requirements and definitions that will be pertinent to the crime charged. *See* [United States v. Wampler](#), 703 F.3d 815, 817–20 (5th Cir. 2013) (affirming district court’s jury instruction which expanded the definition of “resides” provided in SORNA); *see also* [The National Guidelines for Sex Offender Registration and Notification](#), 73 Fed. Reg. 38030, 38063 (July 2, 2008).

See generally [Carr v. United States](#), 130 S. Ct. 2229 (2010). The Fifth Circuit has stated that failure to register under SORNA is not a specific intent crime and therefore does not require knowledge that the defendant’s failure to register violated federal law. *See* [United States v. Whaley](#), 577 F.3d 254, 262 n.6 (5th Cir. 2009).

A fourth element is necessary under the *Apprendi* doctrine if there is an enhancement for a crime of violence found in § 2250(c). Affirmative defenses to this charge are listed in § 2250(b). Definitions of “Interstate Commerce,” “Foreign Commerce,” and “Commerce” may be found in Instruction Nos. 1.39, 1.40, and 1.41, respectively.

The following cases address SORNA’s application to offenders with pre-SORNA sex offenses: *United States v. Kebodeaux*, 133 S. Ct. 2496 (2014), *Reynolds v. United States*, 132 S. Ct. 975 (2012), and *Carr*, 130 S. Ct. at 2235–41.

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