

# Supreme Court of Florida

IN RE:  
STANDARD JURY INSTRUCTIONS  
IN CRIMINAL CASES-  
REPORT 2007-4

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CASE NO.: SC07-767

## COMMITTEE ON STANDARD JURY INSTRUCTIONS IN CRIMINAL CASES

### REPORT TO THE COURT ON REVISED JURY INSTRUCTIONS IN SEXUAL PREDATOR AND SEXUAL OFFENDER CASES

To the Chief Justice and Justices of the Supreme Court of Florida:

Comes now the Supreme Court Committee on Standard Jury Instructions in Criminal Cases, by and through the Chair, the Honorable Terry D. Terrell, Circuit Court Judge, and files revised standard jury instructions in sexual predator and sexual offender cases.

The committee filed a report with the Court on May 2, 2007, proposing new jury instructions in sexual predator and sexual offender cases.

The Court wrote to the committee on October 23, 2007, and requested that the committee re-examine proposed instructions 11.14(b), (c), (d), (g), and (h) and proposed instructions 11.15(d), (e), (g), and (k) and submit revised proposals in conformity with the relevant statutory provisions on or before December 16, 2007.

The committee met on November 16, 2007, to address the written communication from the Court to the committee. The committee, by a unanimous vote on each instruction, amended proposed instructions 11.14(b), (c), (d), (g), and (h) and proposed instructions 11.15(d), (e), (g), and (k). The substituted proposals are attached at Appendix A.

## SEXUAL OFFENDERS

**Proposal 3**            **11.14(b) Failure to Register as a Sexual Offender  
(Failure to Comply with Registration of Employment  
or Enrollment at an Institution of Higher Learning)**

The committee deleted the reference to the Florida Department of Law Enforcement in element 3a. The committee included the terms [is] and [was] in element 3a to match the same terms used in element 3b of the proposed instruction.

**Proposal 4**            **11.14(c) Failure to Register as a Sexual Offender (Failure  
to Report to Department of Highway Safety and Motor  
Vehicles)**

The committee added element 3bi and 3bii to the proposed instruction in the event an offender was charged with a violation of section 943.0435(3), Florida Statutes, by failing to provide required information to the Department of Highway Safety and Motor Vehicles. Element 3 covers reporting requirements contained in subsections (2) and (3) of section 943.0435, Florida Statutes. Rather than attempt to list separately the reporting requirements, the instruction is drafted in a way that permits the trial judge to choose the appropriate reporting requirement as alleged in the charging instrument.

**Proposal 5**            **11.14(d) Failure to Register as a Sexual Offender (Failure  
to Report Change of Name or Address within the State or  
Jurisdiction)**

The committee expanded element 3 to include failure to provide the required information to both the Department of Highway Safety and Motor Vehicles and the sheriff in the county where the offender is located. Element 3 covers reporting requirements contained in subsections (2), (3), and (4), of section 943.0435, Florida Statutes.

**Proposal 8**            **11.14(g) Failure to Register as a Sexual Offender (Failure  
to Report Twice a Year/Failure to Report Quarterly)**

The committee expanded element 3, subsection 3e to include a provision to cover the reporting requirements when an offender reregisters with the sheriff as required by section 943.0435(14)(c), Florida Statutes.

**Proposal 9**

**11.14(h) Sexual Offender Definitions**

The committee recognized that the trial court must make a specific finding that a defendant is a sexual predator, but there is no requirement that this finding be made when a defendant qualifies as a sexual offender. The legislature has changed the definition of the term "sexual offender" several times and the committee felt the best way to provide a definition to the trial judge was to simply cite the statutory definition contained in section 943.0435(1), Florida Statutes. The trial court would then choose the appropriate definition based on the facts alleged in the charging instrument. The committee did not alter the definitions of the other terms listed in the proposed instruction.

**SEXUAL PREDATORS**

**Proposal 4**

**11.15(d) Failure to Register as a Sexual Predator (Failure to Comply with Registration of Enrollment or Employment in Institutions of Higher Education)**

The committee included the terms [is] and [was] in element 3a, element 3b, and element 3c of the proposed instruction.

**Proposal 5**

**11.15(e) Failure to Register as a Sexual Predator (Failure to Report to Department of Highway Safety and Motor Vehicles)**

The committee added element 3bi and 3bii to the instruction to cover those situations where an offender reports to the Department of Highway Safety and Motor Vehicles but fails to comply with the requirements of section 775.21(6)(f)1, 2, and 3, Florida Statutes. Rather than attempt to list separately the reporting requirements, the instruction is drafted in a way that permits the trial judge to choose the appropriate reporting requirement as alleged in the charging instrument.

**Proposal 7**

**11.15(g) Failure to Register as a Sexual Predator (Failure to Report Change of Name or Address within the State or Jurisdiction)**

The committee expanded element 3 by adding subsections di, ii, iii, and iv. These additions cover those situations where a sexual predator reports to either the sheriff of the county wherein he or she resides or reports to the Department of

Highway Safety and Motor Vehicles, but fails to provide the required information listed in section 775.21(6)(g), Florida Statutes.

**Proposal 11**      **11.15(k) Failure to Register as a Sexual Predator (Failure to Register Quarterly)**

The committee deleted the term "the sixth month" from element 3b of the proposed instruction. Section 775.21(8)(a), Florida Statutes, does not mandate a six month reporting requirement.

Respectfully submitted this \_\_\_\_\_ day of December, 2007.

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## **CERTIFICATE OF FONT SIZE**

I hereby certify that this Report has been prepared using Times New Roman 14 point font in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

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**THE HONORABLE TERRY D. TERRELL**  
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