

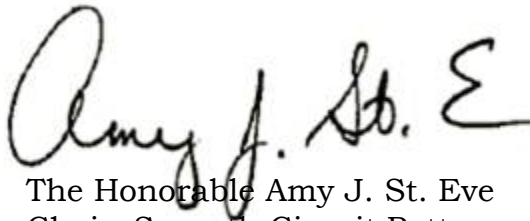
**Proposed Revision to the Seventh Circuit Criminal Jury Instructions**

**18 U.S.C. § 2250(a)**

The Seventh Circuit Pattern Criminal Jury Instructions Committee submits the attached proposed revised criminal pattern jury instruction for 18 U.S.C. § 2250(a) for public comment. The current instruction is inaccurate in light of the Supreme Court's opinion in *Nichols v. United States*, 136 S. Ct. 1113 (2016). The proposed revised version of the instruction is redlined to reflect the proposed changes.

The Committee, which includes judges, prosecutors, defense attorneys, and law professors, welcomes comment before submission of the proposed revision to the Circuit Council for approval and promulgation. Please email your comments to [jicommments@ca7.uscourts.gov](mailto:jicommments@ca7.uscourts.gov), with a subject line of "Pattern Jury Instruction Comment." The Committee will accept comments through March 15, 2019.

Respectfully,

A handwritten signature in black ink that reads "Amy J. St. E". The signature is written in a cursive, flowing style.

The Honorable Amy J. St. Eve  
Chair, Seventh Circuit Pattern  
Criminal Jury Instructions Committee

**NEW 18 USC § 2250(a) FAILURE TO REGISTER/  
UPDATE AS SEX OFFENDER – ELEMENTS**

[The indictment charges the defendant[s] with] [Count[s] \_\_ of the indictment charge[s] the defendant[s] with] failing to register or update registration as a sex offender. In order for you to find [a] [the] defendant guilty of this count, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant was required to register under the Sex Offender Registration and Notification Act; and

2. The defendant traveled in interstate or foreign commerce; and

3. The defendant then knowingly failed to [register] [update his registration] as required by the Sex Offender Registration and Notification Act.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the count you are considering], then you should find the defendant guilty [of that count].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the count you are considering], then you should find the defendant not guilty [of that count].

**Committee Comment**

18 USC § 2250(a) provides an affirmative defense where uncontrollable circumstances prevented the individual from complying, the individual did not contribute to the creation of those circumstances, and the individual complied as soon as the circumstances ceased to exist.

The Supreme Court addressed Section 2250(a) in *Nichols v. United States*, 136 S. Ct. 1113 (2016), where it found that the failure to register as a sex offender under the Sex Offender Registration and Notification Act after traveling was the focus of the offense. See also *United States v. Haslage*, 853 F.3d 331, 332 (7th Cir. 2017) (“the failure to register after traveling” is the focus of the crime). In *Haslage*, the court also addressed the question of the proper venue for charges under this statute. *Id.* at 335 (venue is proper “in the place of the new residence”).

“Interstate/foreign commerce” is defined in a pattern instruction that follows the instructions related to 18 U.S.C. § 1465.

The interstate or foreign commerce travel element is satisfied by proof that the defendant has traveled from one state to another state or to a foreign country after

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having been convicted of a qualifying “sex offense.” See 42 U.S.C. §16911(5). The interstate or foreign travel may not precede the registration requirement. See *Carr v. United States*, 130 S. Ct. 2229 (2010).

The court should instruct regarding requirements of the Sex Offender Registration and Notification Act. See 42 U.S.C. §16901, et seq.