

N.C.P.I.—Crim. 235.69B
FELONIOUS DISCLOSURE OF PRIVATE IMAGES BY OFFENDER UNDER 18
YEARS OF AGE. FELONY.
GENERAL CRIMINAL VOLUME
JANUARY 2025
N.C. Gen. Stat. § 14-190.5A(b), (c)(3)

235.69B. FELONIOUS DISCLOSURE OF PRIVATE IMAGES BY OFFENDER
UNDER 18 YEARS OF AGE. FELONY.

NOTE WELL: This instruction should be used for a second or subsequent offense committed by a person who is under the age of 18 at the time of the offense.

NOTE WELL: This instruction applies for offenses committed on or after December 1, 2024. For offenses committed before December 1, 2024 use N.C.P.I.—Crim. 235.69A.

The defendant has been charged with disclosure of private images.

For you to find the defendant guilty of this offense, the State must prove seven things beyond a reasonable doubt:

First, that the defendant on (*name date*) knowingly disclosed an image¹ of another person with the intent² to [coerce] [harass] [intimidate] [demean] [humiliate] [cause financial loss to] the depicted person.

Second, that on that date the defendant was under the age of 18 at the time of the offense.

Third, that the depicted person was identifiable from the [disclosed image] [information offered in connection with the image].

Fourth, that the [depicted person's intimate parts³ [were exposed] [were realistically depicted to be exposed]] [depicted person [was engaged] [was realistically depicted to be engaged] in sexual conduct⁴] in the disclosed image.

Fifth, that the defendant disclosed the image without the affirmative consent of the depicted person.

And Sixth, that the defendant [obtained] [created] [adapted] [modified] the image [without the consent of the depicted person] [under circumstances

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such that the defendant [knew] [should have known] that the depicted person expected the image to remain private].

NOTE WELL: If the defendant admits the prior conviction, then the seventh element below would be omitted from the instruction.

(And Seventh, that the defendant has a prior conviction for misdemeanor disclosure of private images, that is:

On (*name date*) in (*name court*) the defendant [convicted of] [pled guilty to] misdemeanor disclosure of private images, that was committed on (*name date*), in violation of the law of the State of North Carolina.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly disclosed an image of another person with the intent to [coerce] [harass] [intimidate] [demean] [humiliate] [cause financial loss to] the depicted person, that the defendant was under 18 at the time of the offense, that the depicted person was identifiable from the [disclosed image] [information offered in connection with the image], the disclosed image shows the [depicted person's intimate parts [were exposed] [were realistically depicted to be exposed]] [depicted person [was engaged] [was realistically depicted to be engaged] in sexual conduct], that the defendant disclosed the image without the affirmative consent of the depicted person, that the defendant [obtained] [created] [adapted] [modified] the image [without the consent of the depicted person] [under circumstances such that the defendant [knew] [should have known] that the depicted person expected the image to remain private], (and that defendant had previously been convicted of misdemeanor disclosure of private images), then it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

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1. "Image" is defined as photograph, film, video, recording, live transmission, digital, computer-generated visual depiction, including a realistic visual depiction created, adapted, or modified by technological means, including algorithms or artificial intelligence, such that a reasonable person would believe the image depicts an identifiable individual, or any other reproduction that is created, adapted, or modified by electronic, mechanical, or other means. See N.C. Gen. Stat. § 14-190.5A(a)(2).

2. For a definition of "intentionally," see N.C.P.I.—Crim. 120.10.

3. "Intimate parts" is defined as genitals, pubic area, anus, or nipple of a female over the age of 12. N.C. Gen. Stat. § 14-190.5A(a)(3).

4. "Sexual conduct" is defined as vaginal, anal, oral intercourse, whether actual or simulated, normal or perverted; masturbation, excretory functions, or lewd exhibition of uncovered genitals; an act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in revealing or bizarre costume. See N.C. Gen. Stat. § 190.5A(a)(6).