

N.C.P.I.—Crim. 238.21

FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR (USING OR EMPLOYING A MINOR TO ENGAGE IN OR ASSIST OTHERS IN ENGAGING IN SEXUAL ACTIVITY). FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT JANUARY 2025

N.C. Gen. Stat. § 14-190.16(a)(1)

238.21. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR (USING OR EMPLOYING A MINOR TO ENGAGE IN OR ASSIST OTHERS IN ENGAGING IN SEXUAL ACTIVITY). FELONY.

NOTE WELL: N.C. Gen. Stat. § 14-190.16(c) provides that a mistake of age is not a defense to prosecution.

The defendant has been charged with first degree sexual exploitation of a minor.

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

First, that the defendant [used] [employed] [induced] [coerced] [encouraged] [facilitated] a person to [engage in] [assist others to engage in] sexual activity¹ for [a live performance] [the purpose of producing material² that contains a visual representation depicting this activity]. (*Define sexual activity, i.e., masturbation*) is sexual activity.

Second, that the person was a minor.³

And Third, that the defendant knew the [character] [content] of the [performance] [material].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [used] [employed] [induced] [coerced] [encouraged] [facilitated] a minor to [engage in] [-assist others to engage in] sexual activity for [a live performance] [the purpose of producing material that contains a visual representation depicting sexual activity], and that the defendant knew the [character] [content] of the [performance] [material], 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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NOTE WELL: N.C. Gen. Stat. § 14-190.16(b) states that "[i]n a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations, or otherwise represents or depicts as a minor is a minor."

1. N.C. Gen. Stat. § 14-190.13(5) defines sexual activity.
2. N.C. Gen. Stat. § 14-190.13(2) defines "material" as "pictures, drawings, video recordings, films or other visual or physical depictions or representations, including digital or computer-generated visual depictions or representations created, adapted, or modified by technological means, such as algorithms or artificial intelligence, but not material consisting entirely of written words."
3. N.C. Gen. Stat. § 14-190.13(3) provides that a "minor" is an individual who is less than 18 years old and is not married or judicially emancipated.