

N.C.P.I.—Crim. 238.21A

FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR (PERMITTING A MINOR TO ENGAGE IN SEXUAL ACTIVITY FOR LIVE PERFORMANCE, ETC.). FELONY.

GENERAL CRIMINAL VOLUME

REPLACEMENT JANUARY 2025

N.C. Gen. Stat. § 14-190.16(a)(2)

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238.21A. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR (PERMITTING A MINOR TO ENGAGE IN SEXUAL ACTIVITY FOR LIVE PERFORMANCE, ETC.). 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 four things beyond a reasonable doubt:

First, that the defendant had [custody] [control] of a person.

Second, and that person was a minor.<sup>1</sup>

Third, that the defendant permitted that minor to [engage in] [assist others to engage in] sexual activity<sup>2</sup> for [a live performance] [the purpose of producing material<sup>3</sup> that contains a visual representation depicting this activity]. (*Define sexual activity, i.e., masturbation*) is sexual activity.

And Fourth, 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 had [custody] (or) [control] of a minor, and permitted that 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."*

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1. N.C. Gen. Stat. § 14-190.13(3) defines "minor" as "an individual who is less than eighteen (18) years old and is not married or judicially emancipated."

2. N.C. Gen. Stat. § 14-190.13(5) defines sexual activity.

3. 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."