

N.C.P.I.—Crim. 238.21C
FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR BY PHOTOGRAPHING,
ETC. FELONY.
GENERAL CRIMINAL VOLUME
REPLACEMENT JANUARY 2025
N.C. Gen. Stat. § 14-190.16(a)(4)

238.21C. FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR BY
PHOTOGRAPHING, 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 [recorded] [photographed] [filmed]
[developed] [duplicated] material¹ for [sale] [pecuniary gain].

Second, that the material contained a visual representation depicting a
person engaged in sexual activity.² (*Define sexual activity, i.e., masturbation*)
is sexual activity.

Third, and that person was a minor.³

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

If you find from the evidence beyond a reasonable doubt that on or
about the alleged date, the defendant [recorded] [photographed] [filmed]
[developed] [duplicated] for [sale] [pecuniary gain] material that contained a
visual representation depicting a minor engaged in sexual activity and that
the defendant knew the [character] [content] of the 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.

*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*

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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(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.”

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

3. 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.”