

N.C.P.I.—Crim. 238.22A
SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR (CIRCULATING
MATERIAL). FELONY.
GENERAL CRIMINAL VOLUME
REPLACEMENT JANUARY 2025
N.C. Gen. Stat. § 14-190.17(a)(2)

238.22A. SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR
(CIRCULATING MATERIAL). FELONY.

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

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

First, that the defendant [distributed] [transported] [exhibited] [received] [sold] [purchased] [exchanged] [solicited] material¹ that [contains a visual representation of a minor²] [has been [created] [adapted] [modified] to appear that an identifiable minor]³ engaged in sexual activity.⁴

And Second, 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 [distributed] [transported] [exhibited] [received] [sold] [purchased] [exchanged] [solicited] material that [contains a visual representation of a minor] [has been [created] [adapted] [modified] to appear that an identifiable 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. § 14-190.17(c) provides that mistake of age is not a defense to prosecution.

N.C. Gen. Stat. § 14-190.17(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

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*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(3) defines “minor” as “an individual who is less than eighteen (18) years old and is not married or judicially emancipated.”

3. N.C. Gen. Stat. § 14-190.13(1a) provides that “identifiable minor” means “[a]n individual who meets all of the following criteria:

- a. Was a minor at the time either of the following occurred:
 1. The material was created, adapted, or modified,
 2. The image that was used in creating, adapting, or modifying the material was taken.
- b. Is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature.

The term “identifiable minor” does not require proof of the actual identity of the minor.

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