

238.22C. THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR. FELONY.

NOTE WELL: N.C. Gen. Stat. § 14-190.17A(b) provides 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."

N.C. Gen. Stat. § 14-190.17A(c) provides that mistake of age is not a defense to a prosecution under this section.

The defendant has been charged with third 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 possessed

a. [a child sex doll.¹] A child sex doll means an anatomically correct doll, mannequin, or robot that meets both of the following requirements:

1. Has the features of or features that resemble those of a minor²
2. Is intended to be used for sexual stimulation or gratification.]

b. [material³ that [contains a visual representation of a minor] [has been [created] [adapted] [modified] to appear that an identifiable minor⁴] is engaging in sexual activity].⁵ (*Describe activity*) is sexual activity. A person possesses material when the person is aware of its presence, and has (either alone or together with others) both the power and intent to control the disposition of that material.]

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

N.C.P.I.—Crim. 238.22C
THIRD DEGREE SEXUAL EXPLOITATION OF A MINOR. FELONY.
GENERAL CRIMINAL VOLUME
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N.C. Gen. Stat. § 14-190.17A(a)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant possessed [a child sex doll] [material that [contains a visual representation of a minor] [has been [created] [adapted] [modified] to appear that an identifiable minor] is engaging 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.

1. See N.C. Gen. Stat. § 14-190.13(7) for the definition of “child sex doll”.

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(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.”

4. 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.

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