

235.65 DISCLOSURE OF PRIVATE IMAGES BY OFFENDER UNDER THE AGE OF 18. MISDEMEANOR.

NOTE WELL: This instruction should be used for offenses committed by a person who is under the age of 18 at the time of the offense. This instruction should be used for offenses occurring before Dec. 1, 2017. For offenses occurring on or after Dec 1, 2017 use N.C.P.I.-Crim. 235.65A.

The defendant has been charged with the disclosure of private images.

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

First, that the defendant on (*name date*) knowingly disclosed an image¹ of another person with the intent² to [coerce] [harass] [intimidate] [demean] [humiliate] [cause financial loss to] the depicted person.

Second, that defendant was under the age of 18 at the time of the offense.

Third, that the depicted person was identifiable from the [disclosed image] [information offered in connection with the image].

Fourth, that the [depicted person's intimate parts³ were exposed] [depicted person was engaged in sexual conduct⁴] in the disclosed image.

Fifth, that the defendant disclosed the image without the affirmative consent of the depicted person.

And Sixth, that the defendant disclosed the image under circumstances such that the defendant [knew] [should have known] that the depicted person had a reasonable expectation of privacy.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant knowingly disclosed an image of another person with the intent to [coerce] [harass] [intimidate] [demean] [humiliate] [cause financial loss to] the depicted person, that that the defendant was under the age of 18 at the time of the offense, that the depicted person was identifiable from the [disclosed image] [information offered in connection with the image], the [depicted person's intimate parts were exposed] [depicted person was engaged in sexual conduct] in the disclosed image, that the defendant disclosed the image without the affirmative consent of the depicted person, and that the defendant disclosed the image under circumstances such that the defendant [knew] [should have known] that the depicted person had a reasonable expectation of privacy, then 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 "Image" is defined as photo, film, video, recording, live transmission, digital, computer-generated visual depiction, or any other reproduction.

2 For a definition of intentionally, see N.C.P.I.-Crim. 120.10

3 "Intimate parts" is defined as the genitals, pubic area, anus, or nipple of a female over 12 years old.

4 "Sexual conduct" is defined as vaginal, anal, oral intercourse; masturbation, excretory functions, or lewd exhibition of uncovered genitals. Oral intercourse is any of the following acts: (1) cunnilingus, which is any touching, however slight, by the lips or the tongue of one person to any part of the female sex organ or another; (2) fellatio, which is any touching by the lips or tongue of another and the male sex organ of another; (3) anilingus, which is any touching by the lips of tongue of one person and the anus of another.