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238.17A INDECENT EXPOSURE TO MINOR FOR PURPOSE OF AROUSING OR  
GRATIFYING SEXUAL DESIRE. FELONY.

The defendant has been charged with indecent exposure to a minor for the purpose of arousing or gratifying sexual desire.<sup>1</sup>

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

First, that the defendant willfully exposed [his] [her] private parts.<sup>2</sup>

Second, that the exposure occurred in a public place,<sup>3</sup> that is a place to which the public has access and is visited by many persons.

Third, that the exposure was in the presence of at least one other person.<sup>4</sup>

Fourth, that at the time of the exposure the defendant was at least 18 years old and the alleged victim was less than 16 years of age.

And Fifth, that the defendant acted for the purpose of arousing or gratifying sexual desire.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant willfully exposed [his] [her] private parts in a public place in the presence of at least one other person, that at the time of the exposure the defendant was at least 18 years old and the alleged victim was less than 16 years of age, and that the defendant acted for the purpose of arousing or gratifying sexual desire, 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.<sup>5</sup>

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1. The statute also punishes aiding, abetting or procuring such an act, as well as the owner, etc. of any premises in which such an act is knowingly hired.

2. The term "private parts" refers to the genital or excretory organs. A female breast is not a private part. *State v. Jones*, 7 N.C. App. 166 (1970). Where there is a dispute as to what was exposed, and one of the things is not a private part, the jury should be instructed as to what is or is not a private part.

3. For a further definition of "public place," see *State v. King*, 268 N.C. 711 (1966) (automobile in public parking lot). See also *State v. Fusco*, 136 N.C. App. 268, 523 S.E.2d 741 (1999).

4. The victim need not actually see what is being exposed. *State v. Fly*, 348 N.C. 356 (1998); *State v. Fusco*, 136 N.C. App. 268, 523 S.E.2d 741 (1999). It is not necessary that the exposure be directed at or even seen by another person. *State v. Hoyle*, 373 N.C. 454, 838 S.E. 2d 435 (2020).

5. If there is evidence to support the submission of a lesser included offense, this last phrase would be amended as follows "If you do not so find or have a reasonable doubt as to one or more of these things, then you would not return a verdict of guilty of indecent exposure to a minor but would consider whether the defendant is guilty of . . . ."