

EXHIBITING A HARMFUL PERFORMANCE TO MINORS. G.S. 14-190.15(b).
MISDEMEANOR.

The defendant has been charged with exhibiting a harmful performance to minors.

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

First, that the defendant allowed a minor¹ to view a live performance that was harmful to minors. A live performance is harmful to minors if it depicts [sexually explicit nudity²] [sexual activity³] and taken as a whole:

^athe average adult person applying contemporary community standards would find that it has a predominant tendency to appeal to a prurient interest of minors in sex; and

^bthe average adult person applying contemporary community standards would find the depiction of [sexually explicit nudity] [sexual activity] in the performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and

^cit lacks serious literary, artistic, political or scientific value for minors.⁴

¹G.S. 14-190.13(3) defines minor as "an individual who is less than eighteen (18) years old and is not married or judicially emancipated."

²G.S. 14-190.13(6) defines sexually explicit nudity.

³G.S. 14-190.13(5) defines sexual activity.

⁴G.S. 14-190.13(1) sets out the requirements contained in a, b, and c. It does not matter whether the performance was exhibited with or without consideration. G.S. 14-190.15(b).

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

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant allowed a minor to view a live performance that was harmful to minors and that the defendant knew the [character] [content] of the live performance, 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: G.S. 14-190.15(c) provides that it is an affirmative defense to a prosecution under G.S. 14-190.15(b) that:

- (1) The defendant was a parent or legal guardian of the minor.
- (2) The defendant was a school, church, museum, public library, governmental agency, medical clinic, or hospital carry out its legitimate function; or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.
- (3) Before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least

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*eighteen (18) years old and the defendant reasonably
believed the minor was at least eighteen (18) years old.*

*(4) The dissemination was made with the prior consent
of a parent or guardian of the recipient.*

