

FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR (PERMITTING A MINOR TO ENGAGE IN SEXUAL ACTIVITY FOR LIVE PERFORMANCE, ETC.). G.S. 14-190.16(a)(2). FELONY.

NOTE WELL: For offenses occurring on or after December 1, 1995 this offense is a Class D felony.

G.S. 14-190.16(c) provides that a mistake of age is not a defense to prosecution.

The defendant has been charged with first degree sexual exploitation of a minor.¹

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

First, that the defendant had [custody] (or) [control] of a person.

Second, and that person was a minor.

Third, that the defendant permitted that minor to [engage in] [assist others to engage in] sexual activity² for [a live performance] (or) [the purpose of producing material³ that contains a visual representation depicting this sexual activity]. (Define sexual activity, i.e., masturbation) is sexual activity.

And Fourth, that the defendant knew the [character] (or) [content] of the [performance] (or) [material].

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(5) defines sexual activity.

³G.S. 14-190.13(2) defines "material" as "pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words."

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If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant had [custody] (or) [control] of a minor, and permitted that minor to [engage in] (or) [assist others to engage in] sexual activity for [a live performance] (or) [the purpose of producing material that contains a visual representation depicting this sexual activity] and that the defendant knew the [character] (or) [content] of the [performance] (or) [material], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt about one or more of these things, it would be your duty to return a verdict of not guilty.

NOTE WELL: G.S. 14-190.16(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 representations, or otherwise represents or depicts as a minor is a minor."