

N.C.P.I.—Crim 238.30

SOLICITATION OF A [CHILD] [PERSON DEFENDANT BELIEVED TO BE A CHILD] BY [COMPUTER] [A DEVICE CAPABLE OF ELECTRONIC DATA [STORAGE] [TRANSMISSION]] TO COMMIT A SEX ACT. FELONY.

REPLACEMENT JUNE 2017

N.C. Gen. Stat. § 14-202.3

238.30 SOLICITATION OF A [CHILD] [PERSON DEFENDANT BELIEVED TO BE A CHILD] BY [COMPUTER] [A DEVICE CAPABLE OF ELECTRONIC DATA [STORAGE] [TRANSMISSION]] TO COMMIT A SEX ACT. FELONY.

NOTE WELL: Use N.C.P.I. 238.35 if the defendant actually appeared at the meeting location.

The defendant has been charged with solicitation of a [child] [person whom the defendant believed to be a child], by means of [a computer] [a device capable of electronic data [storage] [transmission]], to commit a sex act.

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

First, that the defendant knowingly, with the intent to commit a sex act [enticed] [advised] [coerced] [ordered] [commanded] a person to meet with [the defendant] [another person].¹

Second, that the purpose of the meeting was to commit a sex act. A sex act means

- a. [Masturbation, done [alone] [with [another human] [an animal].]
- b. [[Vaginal] [anal] [oral] intercourse, [done with [another human] [an animal].]
- c. [Touching, in an act of apparent [sexual stimulation] [sexual abuse], of [the [clothed] [unclothed] [genitals] [pubic area] [buttocks] of another person] [the [clothed] [unclothed] breasts of a human female].]
- d. [A(n) [act] [condition] that depicts [torture], [physical restraint by being [fettered] [bound]], [flagellation [of] [by] a person clad

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in [undergarments] [in [revealing] [bizarre] costume].]

- e. [Excretory functions].
- f. [The insertion of [any part of a person's body, other than the male sexual organ,] [any object into another person's [anus] [vagina], except when done as part of a recognized medical procedure].]
- g. [The lascivious exhibition of the [genitals] [pubic area] of any person].]

Third, that the defendant [enticed] [advised] [coerced] [ordered] [commanded] the person by means of [a computer] [a device capable of electronic data [storage] [transmission], a (*describe device, e.g. a tablet*)], to meet the [defendant] [another person].

Fourth, that the defendant was 16 years of age or older at the time of the offense.

And Fifth, that the person [enticed] [advised] [coerced] [ordered] [commanded] by the defendant was [less than 16 years of age and at least 5 years younger than the defendant] [a person the defendant believed to be less than 16 years of age and at least 5 years younger than the defendant].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant knowingly and with the intent to commit a sex act, [enticed] [advised] [coerced] [ordered] [commanded] a person, by means of [a computer] [a device capable of electronic data [storage] [transmission]] to meet [the defendant] [another person] with the purpose of committing a sex act, the defendant being 16 years of age or older at the time of the offense, and that the person [enticed] [advised] [coerced] [ordered] [commanded] was [less than 16 years of age and at least 5 years younger

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than the defendant] [a person the defendant believed to be less than 16 years
of age and at least 5 years younger than the defendant], 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 Pursuant to the statute, consent is not a defense to this offense.

