

N.C.P.I.—Crim 238.35

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 AND APPEARING AT LOCATION. FELONY.

REPLACEMENT JUNE 2017

N.C. Gen. Stat. § 14-202.3(c)(2)

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238.35 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 AND APPEARING AT LOCATION. FELONY.

*NOTE WELL: Use N.C.P.I. 238.30 if the defendant did not actually appear 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 and that the defendant actually appeared at the meeting location.

For you to find the defendant guilty of this offense, the State must prove six 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].<sup>1</sup>

Second, the [defendant] [person for whom the defendant arranged the meeting] actually appeared at the meeting location.

Third, 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

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of a human female].]

- d. [An [act] [condition] that depicts [torture], [physical restraint by being [fettered] [bound]], [flagellation [of] [by] a person clad 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].]

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

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

And Sixth, 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]

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[transmission]], to meet [the defendant] [another person] with the purpose of committing a sex act, that the defendant actually appeared at the meeting location, that the defendant being 16 years of age or older at that 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 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.

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1 Pursuant to the statute, consent is not a defense to this offense.

