

226.77 FELONIOUS SECRETLY PEEPING INTO ROOM OCCUPIED BY ANOTHER PERSON AND USING A DEVICE TO CREATE A PHOTOGRAPHIC IMAGE OF A PERSON IN THAT ROOM FOR THE PURPOSE OF SEXUAL AROUSAL OR GRATIFICATION. FELONY.

*NOTE WELL: When a person is convicted under this statute the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of Chapter 14 would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register.*

The defendant has been charged with secretly peeping into a room occupied by another person and using a device used to create a photographic image.

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

First, that the defendant intentionally peeped,<sup>1</sup> that is intentionally looked slyly or cautiously into a room.<sup>2</sup>

Second, that the peeping was done secretly.

Third, that the victim was in the room at the time of the peeping.

Fourth, that the victim was a person having a legitimate expectation of privacy at that time.<sup>3</sup>

Fifth, that while secretly peeping into the room the defendant used any device to create a photographic image<sup>4</sup> of the victim.

And Sixth, that the defendant created the photographic image of the victim for the purpose of arousing or gratifying the sexual desire of any person.

If you find from the evidence beyond a reasonable doubt that on or

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about the alleged date, the defendant intentionally and secretly peeped into a room which was occupied by a person having a legitimate expectation of privacy at that time, and that while doing so he used a device to create a photographic image of the victim for the purpose of arousing or gratifying the sexual desire of any person, 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: This section does not affect the legal activities of those who are licensed pursuant to G.S. Chapter 74C, Private Protective Services, or G.S. Chapter 74D, Alarm Services, who are legally engaged in the discharge of their official duties within their respective professions, and who are not engaging in activities for an improper purpose as described in this section.*

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1. Peeping has been defined as looking slyly or cautiously. See *State v. Bivins*, 262 N.C. 93, 136 S.E.2d 250 (1964).

2. The term "room" shall include, but is not limited to, a bedroom, a rest room, a bathroom, a shower, and a dressing room.

3. *In re Banks*, 295 N.C. 236 (1978).

4. The term "photographic image" means any photograph or photographic reproduction, still or moving, or any videotape, motion picture, or live television transmission, or any digital image of any individual.