

226.79 SECRETLY OR SURREPTITIOUSLY INSTALLING A DEVICE USED TO
CREATE A PHOTOGRAPHIC IMAGE¹. 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 installing a device used to create a photographic image.

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

First, that the defendant [used] (or) [installed] in a room any device that could be used to create a photographic image².

Second, that the installation was done secretly or surreptitiously.

Third, that the defendant [used] (or) [installed] the device with the intent to capture the image of another person.

Fourth, that the defendant acted without the consent of the other person.

And Fifth, that the defendant acted 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 about the alleged date the defendant, without the consent of the other person and acting for the purpose of arousing or gratifying the sexual desire of any person, secretly or surreptitiously [used] (or) [installed] in a room any device that can be used to create a photographic image, and that he did so with the intent to capture the image of another person, it would be your

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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 Chapter 74C, Private Protective Services, or Chapter 74D, Alarm Services, of the General Statutes, 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.

1. A second or subsequent felony conviction under this section shall be punished as though convicted of an offense one class higher.

2. 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 television.