

226.92 PATRONIZING A PROSTITUTE. FELONY.

*NOTE WELL: If the defendant admits to the prior conviction, that element of the offense is established and no evidence in support thereof may be adduced by the State. In such a case, a transcript of plea is required for the admission of this conviction. In this situation, this instruction would not be used and instead the jury should be charged on the underlying misdemeanor using N.C.P.I.-Crim 226.91. If the defendant denies the prior conviction or remains silent, the State must prove this prior conviction in the element of the offense charged before the jury as part of its case.*

The defendant has been charged with patronizing a prostitute.

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

First, that the defendant willfully:

(a) [Engaged in [vaginal intercourse] [(describe) sexual act] [(describe) sexual contact] for the purpose of sexual [arousal] [gratification] with a prostitute. A prostitute is a person who engages in the [[performance of] [offer of] [agreement to perform]] [vaginal intercourse] [a sexual act] [sexual contact] for the purpose of sexual [arousal] [gratification] for [money] [other consideration]. A sexual act is cunnilingus, fellatio, anilingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body. Sexual contact is (i) touching of the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a touching of another person with a sexual organ, anus, breast, groin, or buttocks, or (iii) ejaculation, emission, or placing semen, urine, or feces upon any part of another person.]

(b) [[Entered] [remained] in a place of prostitution with the intent to engage in [vaginal intercourse] [a sexual act] [sexual contact] for the purposes of sexual [arousal] [gratification].]

Second, that the defendant performed the act with a person who was not the defendant's spouse.

And Third, that on (*name date*), the defendant in (*name court*) [was convicted of] [pled guilty to] the crime of patronizing a prostitute, that was committed on (*name date*) in violation of the [State of North Carolina] [State of (*name other state*)] [United States].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [willfully engaged in [vaginal intercourse] [a sexual act] [sexual contact] for the purpose of [sexual arousal] [gratification] with a prostitute] [willfully [entered] [remained] in a place of prostitution with the intent to engage in [vaginal intercourse] [a sexual act] [sexual contact] for the purposes of sexual [arousal] [gratification]], that the act was performed with a person not the defendant's spouse, and the defendant had [been convicted of] [pled guilty to] (*name prior offense*), it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.