

226.97 SOLICITATION FOR PROSTITUTION. N.C. Gen. Stat. § 14-204(5),¹
14-205.1. 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 226.98. If the defendant denies the prior conviction or remains silent, the State must prove this prior conviction in the third element of the offense charged before the jury as part of its case.

The defendant has been charged with solicitation for prostitution. Prostitution is the [performance of] [offer of] [agreement] to perform [vaginal intercourse] [(describe) sexual act²] [(describe) sexual contact³] for the purpose of [sexual arousal] [gratification] for any money or other consideration. Solicitation for prostitution may be defined as any course of action by which a person advertises or communicates to another person [that person's] [some other person's] availability for and willingness to commit an act of prostitution, and explicitly or implicitly invites that person to engage in acts of prostitution with [that person] [some other person].

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

First, that the defendant (*describe act, e.g. stood under a street lamp late at night making comments to passersby inviting them to participate in acts of prostitution.*)

Second, that the acts of the defendant were calculated and intended to advertise and communicate the availability of [the defendant]

[some other person] for acts of prostitution, and were calculated and intended to attract and invite other persons to commit acts of prostitution with [the defendant] [some other person].

And Third, that on (*name date*), the defendant in (*name court*) [was convicted of] [pled guilty to] the crime of soliciting prostitution, that was committed on (*name date*) in violation of the laws 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 (*describe act*) with the intent of advertising [the defendant's] [some other person's] availability for acts of prostitution and with the intent to induce other persons to engage in acts of prostitution with [the defendant] [some other person], and the defendant has [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.

1 See N.C. Gen. Stat. § 14-205.1 for degrees of guilt and punishment. See also N.C. Gen. Stat. § 15A-928

2 N.C. Gen. Stat. § 14-27.1 defines sexual act as "cunnilingus, fellatio, analingus, 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: provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.

3 N.C. Gen. Stat. § 14-27.1 defines sexual contact as "(i) touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person."