

N.C.P.I.-Crim. 235.69  
FELONIOUS DISCLOSURE OF PRIVATE IMAGES BY OFFENDER UNDER THE  
AGE OF 18. FELONY.  
GENERAL CRIMINAL VOLUME  
REPLACEMENT JUNE 2018  
N.C. Gen. Stat. § 14-190.5(b),(c)(3)  
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235.69 FELONIOUS DISCLOSURE OF PRIVATE IMAGES BY OFFENDER  
UNDER THE AGE OF 18. FELONY.

*NOTE WELL: This instruction should be used for a second or subsequent offense committed by a person who is under the age of 18 at the time of the offense.*

*NOTE WELL: Use this instruction only if the defendant denies a previous conviction under N.C. Gen. Stat. § 14-190.5(c)(2) or remains silent. If the defendant admits previous conviction, use N.C.P.I. 235.65, the misdemeanor offense. See N.C. Gen. Stat. § 15A-928 for provisions regarding indictment, bifurcated trial, verdict, and judgment. See also N.C.P.I. Crim. 204.05 for a model instruction for bifurcated proceedings.*

*NOTE WELL: This instruction applies for offenses committed before December 1, 2017. For offenses committed on or after December 1, 2017 use N.C.P.I.-Crim. 235.69A.*

The defendant has been charged with the felonious disclosure of private images.

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

First, that on or about the alleged date the defendant on (name date) intentionally<sup>1</sup> disclosed an image<sup>2</sup> of another person with the intent to [coerce] [harass] [intimidate] [demean] [humiliate] [cause financial loss to] the depicted person.

Second, that the defendant on (name date of offense) was under the age of 18.

Third, that the depicted person is identifiable from the [disclosed image] [information offered in connection with the image].

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Fourth, the disclosed image shows the [depicted person's intimate parts<sup>3</sup> exposed] [depicted person engaged in sexual conduct<sup>3</sup>]

Fifth, that the defendant disclosed the image without the affirmative consent of the depicted person.

Sixth, that the defendant disclosed the image under circumstances such that the defendant [knew] [should have known] that the depicted person had a reasonable expectation of privacy<sup>4</sup>.

And Seventh, that the defendant has a prior conviction for misdemeanor disclosure of private images; that is:

On (name date) in (name court) the defendant [was convicted of] [pled guilty to] misdemeanor disclosure of private images, that was committed on (name date), in violation of the law of the State of North

Carolina.<sup>5</sup>

If you find from the evidence beyond a reasonable doubt, that on or about the alleged date the defendant intentionally disclosed an image of another person with the intent to [coerce] [harass] [intimidate] [demean] [humiliate] [cause financial loss to] the depicted person, that defendant on (name date of offense) was under the age of 18, that the depicted person is identifiable from the [disclosed image] [information offered in connection with the image], that the disclosed image shows the [depicted person's intimate parts exposed] [depicted person engaged in sexual conduct], that the defendant disclosed the image without the affirmative consent of the depicted person, that the defendant disclosed the image under circumstances such that the defendant [knew] [should have known] that the depicted person had a reasonable expectation of

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privacy, and that defendant had previously been convicted of misdemeanor disclosure of private images, then 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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<sup>1</sup> For a definition of intentionally, see N.C.P.I.-Crim. 120.10

<sup>2</sup> "Image" is defined as photo, film, video, recording, digital, or other reproduction.

<sup>3</sup> "Sexual conduct" is defined as vaginal, anal, oral intercourse; masturbation, excretory functions, or lewd exhibition of uncovered genitals.

<sup>4</sup> "Reasonable expectation of privacy" is defined, in N.C. Gen. Stat § 14.190.5A(a)(5), as when a depicted person has consented to the disclosure of an image within the context of a personal relationship as defined in N.C. Gen. Stat § 50B-1(b) and the depicted person reasonably believes the disclosure will not go beyond that relationship.

<sup>5</sup> This offense applies to a second or subsequent offense and additional prior offenses can be added as additional elements.