

N.C.P.I.-Crim. 235.69A  
FELONIOUS DISCLOSURE OF PRIVATE IMAGES BY OFFENDER UNDER 18  
YEARS OF AGE. FELONY.  
GENERAL CRIMINAL VOLUME  
JUNE 2018  
N.C. Gen. Stat. § 14-190.5A(b)(c)(3)  
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235.69A FELONIOUS DISCLOSURE OF PRIVATE IMAGES BY OFFENDER  
UNDER 18 YEARS OF AGE. 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 on or after December 1, 2017. For offenses committed before December 1, 2017 use N.C.P.I.-Crim. 235.69.*

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 the defendant on (*name date*) knowingly disclosed an image<sup>1</sup> of another person with the intent<sup>2</sup> to [coerce] [harass] [intimidate] [demean] [humiliate] [cause financial loss to] the depicted person.

Second, that defendant was under the age of 18 at the time of the offense.

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

Fourth, that the [depicted person's intimate parts <sup>3</sup> were exposed] [depicted person was engaged in sexual conduct <sup>4</sup>] in the disclosed image.

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

Sixth, that the defendant obtained the image [without the consent of the depicted person] [under circumstances such that the defendant [knew] [should have known] that the depicted person expected the image to remain private].

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 [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.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant knowingly disclosed an image of another person with the intent to [coerce] [harass] [intimidate] [demean] [humiliate] [cause financial loss to] the depicted person, that the defendant was under the age of 18 at the time of the offense, that the depicted person was identifiable from the [disclosed image] [information offered in connection with the image], 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, and that the defendant obtained the image [without consent of the depicted person] [under circumstances such that the defendant [knew] [should have known] that the depicted person expected the image to remain private], and that defendant had previously been convicted of misdemeanor disclosure of

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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> "Image" is defined as photo, film, video, recording, live transmission, digital, computer-generated visual depiction, or any other reproduction.

<sup>2</sup> For a definition of intentionally, see N.C.P.I.-Crim. 120.10

<sup>3</sup> "Intimate parts" is defined as the genitals, pubic area, anus, or nipple of a female over 12 years old.

<sup>4</sup> "Sexual conduct" is defined as vaginal, anal, oral intercourse; masturbation, excretory functions, or lewd exhibition of uncovered genitals. Oral intercourse is any of following acts: (1) cunnilingus, which is any touching, however slight, by the lips or the tongue of one person to any part of the female sex organ or another; (2) fellatio, which is any touching by the lips or tongue of another and the male sex organ of another; (3) anilingus, which is any touching by the lips of tongue of one person and the anus of another.