

N.C.P.I.—CRIMINAL 238.21
FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR (USING OR EMPLOYING A MINOR TO
ENGAGE IN OR ASSIST OTHERS IN ENGAGING IN SEXUAL ACTIVITY). FELONY.
GENERAL CRIMINAL VOLUME
REPLACEMENT JANUARY 2000
N.C. Gen. Stat. § 14-190.16(a)(1)

238.21 FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR (USING OR
EMPLOYING A MINOR TO ENGAGE IN OR ASSIST OTHERS IN ENGAGING IN
SEXUAL ACTIVITY). FELONY.

*NOTE WELL: For offenses occurring on or after December 1,
1995 this offense is a Class D felony.*

*G.S. 14-190.16(c) provides that a mistake of age is not a
defense to prosecution.*

The defendant has been charged with first degree sexual exploitation
of a minor.

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

First, that the defendant [used] [employed] [induced] [coerced]
[encouraged] (or) [facilitated] a person to [engage in] (or) [assist others to
engage in] sexual activity¹ for [a live performance] (or) [the purpose of
producing material² that contains a visual representation depicting this
activity]. (*Define sexual activity, i.e., masturbation*) is sexual activity.

Second, that that person was a minor.³

And Third, that the defendant knew the [character] (or) [content] of
the [performance] [material.]

If you find from the evidence beyond a reasonable doubt that on or
about the alleged date, the defendant [used] [employed] [induced]
[coerced] [encouraged] (or) [facilitated] a minor to [engage in] (or) [assist
others to engage in] sexual activity for [a live performance] (or) [the
purpose of producing material that contains a visual representation depicting
sexual activity), and that the defendant knew the [character] (or) [content]
of the [performance] [material], 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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NOTE WELL: G.S. 14-190.16(b) states that "[i]n a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations, or otherwise represents or depicts as a minor is a minor."

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1. G.S. 14-190.13(5) defines sexual activity.
 2. G.S. 14-190.13(2) defines "material" as "pictures, drawings, video recordings, films or other visual depictions or representations but not material consisting entirely of written words."
 3. G.S. 14-190.13(3) defines "minor" as "an individual who is less than eighteen (18) years old and is not married or judicially emancipated."