

N.C.P.I.—CRIMINAL 238.21A
FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR (PERMITTING A MINOR TO ENGAGE
IN SEXUAL ACTIVITY FOR LIVE PERFORMANCE, ETC.). FELONY.
GENERAL CRIMINAL VOLUME
REPLACEMENT JANUARY 2000
N.C. Gen. Stat. § 14-190.16(a)(2)

238.21A FIRST DEGREE SEXUAL EXPLOITATION OF A MINOR
(PERMITTING A MINOR TO ENGAGE IN SEXUAL ACTIVITY FOR LIVE
PERFORMANCE, ETC.). 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.¹

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

First, that the defendant had [custody] (or) [control] of a person.

Second, and that person was a minor.

Third, that the defendant permitted that minor to [engage in]
[assist others to engage in] sexual activity² for [a live performance] (or)
[the purpose of producing material³ that contains a visual representation
depicting this sexual activity]. (*Define sexual activity, i.e., masturbation*)
is sexual activity.

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

If you find from the evidence beyond a reasonable doubt that on or
about the alleged date, the defendant had [custody] (or) [control] of a
minor, and permitted that 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 this
sexual activity] and that the defendant knew the [character] (or)

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[content] of the [performance] (or) [material], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt about one or more of these things, it would be your duty to return a verdict of not guilty.

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."

1. 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."

2. G.S. 14-190.13(5) defines sexual activity.

3. 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."