

14-904. Criminal sexual contact; victim unconscious, asleep, physically or mentally helpless; essential elements.

For you to find the defendant guilty of criminal sexual contact [as charged in Count _____]¹, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant
[touched or applied force to the unclothed _____² of
_____ (name of victim) without _____'s (name of
victim) consent;]³
[OR]
[caused _____ (name of victim) to touch the _____² of the
defendant;]
2. _____ (name of victim) was [unconscious]³ [asleep]
[physically helpless] [suffering from a mental condition so as to be incapable of
understanding the nature or consequences of what the defendant was doing];
3. The defendant knew or had reason to know of the condition of
_____ (name of victim);
4. _____ (name of victim) was eighteen (18) years of
age or older;
- [5. The defendant's act was unlawful;]⁴
6. This happened in New Mexico on or about the _____ day of
_____, _____.

USE NOTES

1. Insert the count number if more than one count is charged.
2. Name one or more of the following parts of the anatomy touched: "groin," "anus," "buttocks," "breast," "mons pubis," "penis," "testicles," "mons veneris," or "vulva." When definitions are provided in UJI 14-981 NMRA, they must be given after this instruction; otherwise, no definition need be given unless the jury requests one.
3. Use only the applicable alternative or alternatives.
4. Use the bracketed element if the evidence raises a genuine issue of the unlawfulness of the defendant's actions. If this element is given, UJI 14-132 NMRA, "unlawful defined," must be given after this instruction.
[As amended, effective September 1, 1994; January 20, 2005; as amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]