

14-933. Criminal sexual contact of a minor in the [third] [second] degree; victim unconscious, asleep, physically or mentally helpless; aided or abetted by another; essential elements.

For you to find the defendant guilty of criminal sexual contact of a minor when aided and abetted by another [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);]³
[OR]
[caused _____ (name of victim) to touch the _____² of the defendant;] _____ (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);
2. The defendant knew or had reason to know of the condition of _____ (name of victim);
3. The defendant acted with the help or encouragement of one or more persons;
4. _____ (name of victim) was at least thirteen (13) but less than eighteen (18) years old;
- [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: "buttocks," "breast," "groin," "anus," "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 January 20, 2005; as amended by Supreme Court Order No. 10-8300-039, effective December 31, 2010; as amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]