

14-962. Criminal sexual penetration of a 13 to 16 year old; by person 18 years or older; essential elements.

For you to find the defendant guilty of criminal sexual penetration of a child 13 to 16 by a person who is at least 18 years old and at least 4 years older than the victim, [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 defendant²
[caused _____ (*name of victim*) to engage in
_____;]³
[OR]
[caused the insertion, to any extent, of a _____⁴ into the
_____⁵ of _____ (*name of victim*);]
2. _____ (*name of victim*) was at least 13 but less than 16 years old;
3. The defendant was 18 years old or older at the time of the offense;
4. The defendant is at least 4 years older than _____ (*name of victim*);
- [5. _____ (*name of victim*) was not the spouse of the defendant];⁶
- [6. The defendant's act was unlawful;]⁷
7. 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. Use only the applicable alternatives.
 3. Name the sexual act or acts: i.e., "sexual intercourse", "anal intercourse", "cunnilingus" or "fellatio". The applicable definition or definitions from Instruction 14-982 NMRA must be given after this instruction.
 4. Identify the object used.
 5. Name the part or parts of the body: i.e., "vagina", "penis" or "anus." The applicable definition or definitions from Instruction 14-981 NMRA must be given after this instruction.
 6. Use the bracketed sentence upon request if sufficient evidence has been presented to raise the issue of spousal relationship. The definition of "spouse", Instruction 14-983 NMRA, must also be given.
 7. 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.]