

14-371. Assault; attempted battery; a household member@; essential elements.

For you to find the defendant guilty of assault against a household member [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 intended to commit the crime of battery against _____ (name of victim) by _____²;

A battery consists of intentionally touching or applying force in a rude, insolent, or angry manner.³

2. The defendant began to do an act which constituted a substantial part of the battery but failed to commit the battery;

3. _____ (name of victim) was a household member of the defendant⁴;

4. 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 ordinary language to describe the touching or application of force.
3. If the a unlawfulness@ of the act is in issue, add unlawfulness as an element as provided by Use Note 1 of UJI 14-132 NMRA. In addition, UJI 14-132 is given. If the issue of a lawfulness@ involves self defense or defense of another, see UJI 14-5181 NMRA to UJI 14-5184 NMRA.

4. Definition of a household member should be given, see UJI 14-370 NMRA.

[Adopted by Supreme Court Order No. 14-8300-005, effective for all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 16-8300-008, effective for all cases pending or filed on or after December 31, 2016.]