

14-923. Criminal sexual contact of a minor in the fourth degree; victim unconscious, asleep, physically or mentally helpless; essential elements.

For you to find the defendant guilty of criminal sexual contact of a minor [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 _____² of
_____ (*name of victim*);]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 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. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]