

14-930. Criminal sexual contact of a minor in the [third] [second] degree; force or coercion; personal injury; essential elements.¹

For you to find the defendant guilty of criminal sexual contact of a minor causing personal injury [as charged in Count _____]², 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] _____³ of
_____ (name of victim)]⁴

[OR]
[caused _____ (name of victim) to touch the _____³ of the
defendant;]

[2. [The defendant used physical force or physical violence;]⁴

[OR]
[The defendant (caused _____ (name of victim) to touch the
_____³ through the use of threats of physical force or physical violence
against _____ (name of victim or other person)⁴ (OR) (threatened to
_____⁵); AND _____ (name of victim) believed that
the defendant would carry out the threat;]

[OR]
[_____ (name of victim) was (unconscious)⁴ (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); AND the
defendant knew or had reason to know of the condition of _____ (name
of victim);]

3. The defendant's acts resulted in _____⁶;

4. _____ (name of victim) was at least thirteen (13) but
less than eighteen (18) years old;

[5. The defendant's act was unlawful;]⁷

6. This happened in New Mexico on or about the _____ day of
_____, _____.

USE NOTES

1. This instruction sets forth the elements of all three types of "force or coercion" in NMSA 1978, Section 30-9-10(A) (2005): (1) use of physical force or physical violence, (2) threats, and (3) mental or other incapacity of the victim. If the evidence supports two or more of these theories of "force or coercion," this instruction may be used.

2. Insert the count number if more than one count is charged.

3. 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.

4. Use only the applicable alternative or alternatives.

5. Describe threats used against the victim or another in layman's language. See Section 30-9-10 (A)(3) for examples of types of threats.

6. Name victim and describe personal injury or injuries. See Section 30-9-10(D) for types of personal injuries.

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; 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.]