

14-905. Criminal sexual contact; force or coercion; essential elements.¹

For you to find the defendant guilty of criminal sexual contact [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*) without _____'s (*name of
victim*) consent;]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 (used 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 act was unlawful;]⁶
4. _____ (*name of victim*) was eighteen (18) years of
age or older;
5. 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: "groin," "anus," "buttocks," "breast," "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 NMSA 1978, Section 30-9-10(A)(3) (2005) for examples of types of threats.

6. 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 September 1, 1994; 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.]