**14-2228C. Escape; community custody release program; essential elements.1**

For you to find the defendant guilty of escape from a community custody release program [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 was charged with a [misdemeanor] [felony]3 offense4;

2. The defendant was not on probation or parole;4

3. The defendant was committed to a judicially approved community custody release program;

4. Under the procedures and conditions of the program, the defendant was required to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*describe the program requirement(s) allegedly violated*);

5. The defendant [failed to comply] [attempted to avoid complying]3 with the requirement to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*describe the program requirement*) [by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*describe the substantial step toward attempting to escape*)]5;

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

USE NOTES

1. This instruction is to be used for escape from a community custody release program under NMSA 1978, Section 30-22-8.1 (1999). For escape from a county or municipal jail-initiated prisoner-release program established under NMSA 1978, Section 33-3-24 (1981), use UJI 14-2228A NMRA. For escape from a penitentiary inmate-release program established under NMSA 1978, Sections 33-2-43 to -47 (1969, as amended through 1980), use UJI 14-2228B NMRA.

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

3. Use the applicable alternative.

4. Essential element, but rarely at issue; *see* Committee commentary.

5. For attempts to escape, specify the act(s) allegedly constituting a substantial step toward escape and give UJI 14-2801 NMRA following this instruction. For completed offenses, UJI 14-141 NMRA must be given following this instruction.

[Adopted by Supreme Court Order No. 22-8300-031, effective for all cases pending or filed on or after December 31, 2022.]